Recommendations And Findings To Improve The Federal Crop Insurance Program

Principal Report
of the

COMMISSION FOR THE IMPROVEMENT
OF THE
FEDERAL CROP INSURANCE PROGRAM

Washington, D.C.

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NOTE: Questions relating to this report may be addressed to the Commission for the Improvement of the Federal Crop Insurance Program, 1255 23rd Street, N.W., Suite 880, Washington, D.C. 20037. Telephone: (202) 887-6700.

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INTRODUCTION

Long before the drought of 1988—with its devastating effects on American farmers—congressional leaders had begun studying the Federal crop insurance program to determine why the level of farmer participation in the program in most areas of the Nation has remained far below what was anticipated when the Federal Crop Insurance Act of 1980 was enacted.

The 1988 drought was one of the worst on record for the central United States and adversely affected many other areas. To provide emergency disaster relief, Congress enacted the Disaster Assistance Act of 1988. But during consideration of that legislation, as noted by Congressman Ed Jones, "questions were repeatedly raised about why more producers weren't insured under the Federal Crop Insurance Program." Congressman Jones then said:

> After all, in 1980 Congress completely overhauled the program to include coverage on virtually all crops in every county.
>
> However, the sad fact is that only about 25 percent of the acreage eligible for insurance coverage currently is enrolled in the program. This level of participation simply is not adequate enough to address the financial consequences of a disaster like we experienced this year. Nor is producer participation in the program sufficient to forestall the political pressures that always come to bear when natural disasters strike a wide path, especially in an election year. (Statement by Congressman Ed Jones during consideration of the Federal Crop Insurance Commission Act of 1988. See 134 Cong. Rec. H8230 (daily ed. Sept. 26, 1988).)

Thus, in the wake of the 1988 drought, Congress enacted the Federal Crop Insurance Commission Act of 1988, which established an advisory panel to study the Federal crop insurance program. Specifically, the purpose of the Commission established by the 1988 Act is to ensure a thorough review of the Federal crop insurance program and the development of recommendations for such changes as are needed to improve the program so as to lessen, if not eliminate, the need for additional disaster payment programs while providing to producers of agricultural commodities more equitable, efficient, and predictable protection from natural disasters.

Under the statute, the Commission is specifically charged with the responsibility of studying and determining why participation in the Federal crop insurance program has not reached the levels of participation that were anticipated when the Federal Crop Insurance Act of 1980 was enacted.

In April 1989, the Commission submitted an interim report to the congressional agriculture committees and the Secretary of Agriculture. The report sets forth the Commission's findings and recommendations for immediate administrative improvements in the Federal crop insurance program that it believes would foster increased participation by farmers. The Commission's findings and recommendations fell into four general categories: (1) increased responsiveness to producer needs; (2) broadening participation; (3) program simplification; and (4) improvement of delivery system performance.

In the April report, the Commission noted that the enactment of the Federal Crop Insurance Commission Act of 1988 demonstrated a serious commitment by Congress to a more effective Federal crop insurance program. As stated in that report, the Commission believes that support by Congress and the Department of Agriculture is essential if crop insurance is to become the major risk management tool of agriculture insofar as natural disasters are concerned.

In 1978, at the outset of the debate that eventually led to the enactment of the Federal Crop Insurance Act of 1980, then-Secretary of Agriculture Bergland stated that "Unquestionably, the Government must protect farmers against natural disasters. Consequently, the policy choice precludes consideration of anything other than the type of response we will have."

Secretary Bergland, in discussing the appropriate response, stated, in pertinent part, as follows:

We are confronted with choosing between widely different types of programs to offer farmers. Either we will offer emergency relief programs that provide aid without advance sign-up and without any premium payment by the producer, or we will offer an aid-through-insurance type of system that requires advance sign-up and premium payment (with emergency programs terminated. Most of our aid has been provided through emergency relief programs in the past. The availability of these programs is one reason why so few producers participate in Federal crop insurance.

Let's examine the two approaches. An emergency relief type of program can provide aid based on eligibility criteria established prior to or at the time of disaster occurrence. That is, benefits can be based on a prior framework or on a decision made at the time of a disaster. These programs are extremely flexible in determining who receives what benefits. Such flexibility can be both an advantage and a disadvantage. It is an advantage if we are unable to anticipate the types of disasters and protection that will be needed over time. The flexible response is a disadvantage in that it is difficult to refuse aid to a disaster victim even if he could have anticipated the event, or if he could probably do without program benefits.

Without a rigidly structured system for decision-making or a cold attitude on the part of the decision-makers, emergency programs have a tendency to expand without justification. Even when nonpreplanned benefits are provided after a disaster situation, there is always a debate about whether or not even more benefits should be given to producers.

An insurance system, on the other hand, requires a major effort to implement the program before the disaster strikes. First, an effort must be expended to determine what protection is needed and what types of disasters should be covered. Then, a means must be found to persuade those who are eligible to participate in the program. If a large percentage of producers do not participate in the insurance program, it is likely that the emergency type of benefits will be provided should a disaster strike.

The level of participation needed to rely solely on the insurance type of coverage to cover production loss without providing other relief is unknown. It does seem to me, however, that if we can get 60 to 70 percent of all producers to participate in an insurance system, most producers who need aid would be included. If less than 60 to 70 percent of the farmers are protected, it is likely that a sense of sympathy will prompt the system to provide protection for those who did not participate. Reaching the target level of participation would require both a well developed program and the termination of other programs that would provide protection and thereby compete with the new system. (Statement by Hon. Bob Bergland, "Disaster Assistance for Farmers," Committee Print, Senate Committee on Agriculture, Nutrition, and Forestry, 95th Congress, 1st Sess. 112 (1978).)

The Commission believes that the remarks of Secretary Bergland are as pertinent today as they were in 1978. The Commission is dedicated to making the Federal crop insurance program the "well developed program" that the Secretary referred to.

This report constitutes the Commission's principal report as required by the Federal Crop Insurance Commission Act of 1988. In addition to recommendations for administrative improvements in the Federal crop insurance program, this report includes recommendations for legislation and a status report on the improvement of program administration by the Secretary based on the recommendations made by the Commission in the April report.

All of the recommendations contained in this report are aimed at providing better and more cost-effective Federal crop insurance for the Nation's farmers.

The submission of this report to the congressional agriculture committees and the Secretary does not mark an end to the work of the Commission. Under the statute, the Commission is charged with the responsibility of continuing to monitor the Federal crop insurance program and reporting on a monthly basis, through December 31, 1990, to the congressional agriculture committees and the Secretary on (1) the extent to which the recommendations of the Commission have been implemented, and (2) the level of participation in the program by producers.

The Commission considers the continued monitoring and monthly reporting a very serious responsibility. In addition to meeting the statutory requirements, the

Commission intends to use the monthly reporting process as a means of furnishing the congressional agriculture committees and the Secretary with any additional recommendations it may develop on ways to improve the program.

The Commission also intends to study and analyze the recommendations contained in the April report and this report and furnish the congressional agriculture committees and the Secretary, through the monthly reporting process, with any views or comments it may develop with respect to such recommendations.

EXECUTIVE SUMMARY OF RECOMMENDATIONS

The recommendations in this report are for improvements in the Federal crop insurance program with the ultimate goal of providing to producers more equitable, efficient, and predictable protection from natural disasters.

The Commission's recommendations fall into four general categories: (1) increased responsiveness to producer needs; (2) broadening participation; (3) program simplification; and (4) improved program administration. A summary of the Commission's recommendations follows:

INCREASED RESPONSIVENESS TO PRODUCER NEEDS

Yield Guarantee Plans

- Offer the following voluntary yield plans: coverage based on the producer's Agricultural Stabilization and Conservation Service (ASCS) yield for ASCS program commodities and related commodities; coverage based on a county average yield for other commodities; and coverage based on a modified actual production history (APH) program yield for all commodities, and for ASCS program commodities, the APH yield cannot be lower than the producer's ASCS yield.
- Require the ASCS to establish soybean yields for crop insurance purposes.

Update ASCS Yields

- Require a revision of ASCS established yields, for crop insurance purposes, to accurately reflect actual production and to establish farm yields by practice.

Processor Yield Guarantee

- Establish guarantees for sugar beets and sugarcane that are based on the yield of the commodity after its initial processing.

Price Election Levels

- Enact legislation to authorize the Federal Crop Insurance Corporation (FCIC) to determine a maximum price election level based on one of the following methods, whichever is appropriate—(1) a futures market–based price election level, (2) a price election level based on the contract price of a commodity, (3) a projected market price at harvest time election level, and (4) a price election level based on the variable cost of production of the commodity. However, in no case may the maximum price election be less than the projected market price at harvest time.
- Require the FCIC to announce the maximum price election level no later than 60 days prior to the sales closing date for insurance for the commodity and permit the producer to select any level up to the maximum level.
- Where appropriate, develop price elections that more accurately reflect the local price of commodities, and the differences in specific commodity varieties.

Prevented Planting

- Offer an effective prevented planting endorsement for excessive moisture.

Late Planting

- Review, and revise as necessary, all final planting dates and, in all policies for annual commodities, allow an automatic extension of up to 10 days, with a 1 percent per day decrease in the guarantee.

Experience Rating System

- Expand the experience rating system of premium discounts and surcharges that rewards or penalizes producers for their insurance experience.

Early Claims Adjustment

- Allow final claim adjustments, on crops yielding less than 20 percent of the program yield, to be based on the loss appraisal, thereby providing producers the option to harvest the remainder of the crop without a penalty.

Fire and Hail Exclusion

- Enact legislation to adjust the current limit on the amount of reductions in Federal crop insurance premiums when coverage for hail and fire losses is excluded from the policies so as to allow more actuarially sound and equitable reductions.

Unit Definition

- Standardize the unit definition within regions for ASCS program commodities and soybeans, apply a premium rating policy to the entire farm, including division of units, and then permit a rate reduction for unit consolidation.

Pilot Programs for New Methods of Insuring Against Agricultural Risks

- Enact legislation to specifically authorize the FCIC to conduct pilot programs to determine the feasibility of providing insurance coverage for agricultural risks through various methods not currently authorized under the Federal Crop Insurance Act.

County Loss Pilot Program

- Enact legislation that requires the FCIC to implement a pilot program to determine the feasibility of a Federal crop insurance program that bases indemnity payments on a county's loss of production, rather than on an individual's loss of production.

Pilot Program — 85 Percent Level of Coverage

- Enact legislation to require the FCIC to implement a pilot program for corn and a specialty crop under which producers would be permitted to purchase coverage equal to 85 percent of yields.

BROADENING PARTICIPATION

Level and Distribution of Premium Subsidies

- Enact legislation to provide for (1) a 30 percent premium subsidy for all coverage levels up to 75 percent of program yields, and (2) a temporary, additional premium subsidy for all coverage levels up to 65 percent of yields.

Eliminate Discriminatory Provisions in Other USDA Programs

- Ensure that no agricultural program, including disaster assistance programs, reduces or limits the benefits of the program due to a producer's receipt of Federal crop insurance indemnity payments.

Program Expansion

- Enact legislation to require the FCIC to offer insurance coverage for a commodity in all counties in a State if the FCIC offers such coverage in any county in the State.

- Expand the Federal crop insurance program to insure all commodities grown commercially in the United States.

Premium Rating System

- Establish premium rates on the basis of losses expected to occur in the future, using only the experience data that reflect normal risks, rather than relying on all losses that have occurred in the past.

- Review all county premium rates for each commodity and develop county rates on the basis of data on the county and the counties in the surrounding area.

PROGRAM SIMPLIFICATION

Improved Presentation of Coverage

- Change the presentation of the insurance guarantee to a dollar amount of coverage per acre.

Improved Presentation of Rate and Coverage Exceptions

- Clearly state in the policy all exceptions, requirements, restrictions, or other provisions concerning coverage and ensure that they are presented in a manner to permit the automation of the data using computer technology.

IMPROVED PROGRAM ADMINISTRATION

Cash Discounts

- Offer producers cash discounts for the early payment of premiums.

Develop Tracking and Individual Risk Underwriting Systems

- Enact legislation to authorize the FCIC to require participants to provide Social Security numbers, or individual tax identification numbers where appropriate, and develop a tracking system using such numbers to identify and monitor individual producers attempting to abuse the program.

- Expedite the development and implementation of an individual risk underwriting system to correct rating anomalies.

Penalty for False Certification by Farmers

- Enact legislation to provide for the imposition of civil penalties for producers who intentionally submit incorrect data or information.

- Develop language for all policies that could be used to assess liquidated damages against producers who intentionally submit incorrect data or information.

- Work with reinsured companies in developing language for inclusion in policies on the effect of producers intentionally supplying false information to a company.

Need for an Independent Appeals Process

- Enact legislation to require the establishment of an independent appeals system to review adverse determinations by the FCIC.

Improving the Administration of the FCIC

- Improve the efficiency of the program by, among other things, developing an improved and streamlined organizational structure for the FCIC; establishing a committee to advise the Board of Directors of the Corporation; using outside contracting to the greatest extent possible; and enacting legislation to establish, over the long-term, a new corporation to carry out the Federal crop insurance program.

Update Statute

- Enact legislation to update the Federal Crop Insurance Act by eliminating certain obsolete provisions and making the reinsurance program an integral part of the statutorily prescribed crop insurance program.

The Role of the FCIC as a Reinsurer

- Require the FCIC to reconsider the limitations the Corporation is placing on its role as a reinsurer of risks assumed by private crop insurance companies.

RECOMMENDATIONS AND FINDINGS

RECOMMENDATIONS AND FINDINGS FOR LEGISLATIVE AND ADMINISTRATIVE IMPROVEMENTS IN THE FEDERAL CROP INSURANCE PROGRAM

This section of the report contains a detailed description of each of the Commission's recommendations and findings for legislative and administrative improvements in the Federal crop insurance program, aimed at establishing a program that will lessen, if not eliminate, the need for other forms of disaster assistance.

Section 5 of the Federal Crop Insurance Commission Act of 1988 requires the Commission to study and determine why participation in the Federal crop insurance program has not reached the levels anticipated when the Federal Crop Insurance Act of 1980 was enacted. In addition, section 5 requires the Commission to prepare findings and recommendations setting forth means by which participation in the program and natural disaster protection for producers of agricultural commodities may be improved. Section 5 lists 12 particular areas to be examined by the Commission, and the legislative history of the Act indicates that the Commission should examine 5 additional areas. Each of these items is discussed in this section of the report.

All of the recommendations being made by the Commission are aimed at providing better and more cost-effective Federal crop insurance for our Nation's farmers. The recommendations are for major policy changes in the crop insurance program with the underlying purpose of encouraging greater participation by farmers. Legislation would be required to effect many of the changes. However, some of the changes could be made administratively by the Secretary of Agriculture under existing law, and the Commission urges him to make those changes as well as the administrative changes the Commission recommended in its April report as expeditiously as possible. If the Secretary elects not to implement the recommendations included in this report and in the Commission's April report, the Commission urges the enactment of legislation to require the Federal Crop Insurance Corporation (FCIC) to carry out the Commission's recommendations.

There are a number of other areas the Commission believes should be addressed. The Commission intends to continue to review the program and will use the monthly reporting process as a means of making further recommendations for the improvement of the Federal crop insurance program.

In addition to the specific recommendations set forth in this section of the report, the Commission agreed to include in the report, for consideration by Congress and the FCIC, an alternative proposal for a new program. That proposal is set out in Appendix B of this report.

Commissioners Bill and Fulwider submitted additional views relating to the recommendations of the Commission. The Commissioners' additional views are set out in Appendix C of this report.

RECOMMENDATIONS

INCREASED RESPONSIVENESS TO PRODUCER NEEDS

YIELD GUARANTEE PLANS

RECOMMENDATIONS:

- Offer the following voluntary yield plans: coverage based on the producer's Agricultural Stabilization and Conservation Service (ASCS) yield for ASCS program commodities and related commodities; coverage based on a county average yield for other commodities; and coverage based on a modified actual production history (APH) program yield for all commodities, and for ASCS program commodities, the APH yield cannot be lower than the producer's ASCS yield.
- Require the ASCS to establish soybean yields for crop insurance purposes.

No single issue is more important to producers than their belief that they are being offered adequate insurance coverage on their commodities. Repeated concerns regarding coverage were expressed by farmers in the Commission's public hearings. Two aspects, in particular, were found to be most troublesome: (1) the complexity of the APH yield program; and (2) the amount of coverage offered.

The APH program provides farmers with an opportunity to establish their crop insurance yields on the basis of their own production records. One of the main reasons the APH program was developed was to provide a producer, with above average yields, coverage that was more commensurate with the producer's proven yield history. Under the APH program, coverage and rates are based on the average yields of the individual producer, and not on an area average.

Although the principle of attracting farmers with higher yields is sound, the program's complexity has detracted from its effectiveness. There are two primary categories of APH program commodities, Categories B and C. Category B commodities include corn, soybeans, grain sorghum, upland cotton, extra long staple (ELS) cotton, dry beans (except bush varieties for garden seed), popcorn, rice, safflowers, wheat, barley, oats, rye, flax, and sunflower seed. Category C commodities are primarily fruit, vegetable, and specialty crops, including, but not limited to, almonds, apples, sugarcane, sugar beets, tomatoes, and certain varieties of tobacco.

For Category B commodities, the Federal Crop Insurance Corporation (FCIC) bases the APH program yield on a simple average of the yields for the previous 10 years, based on certifiable farm yield records. Optimally, 10 years of certifiable yield data for each field within the insurable unit are available and used to derive the APH program yield. However, if the farmer does not have 10 years of certifiable yields, then a transitional yield (T–yield) is used to complete the 10–year series. T–yields are based on averages developed from county yield data for the commodity type and practice relative to the ASCS yield established for that county. This creates further complexity, particularly when the commodity does not have an ASCS established yield. For ASCS program commodities, the T–yield is usually equal to a percentage of the ASCS program yield for the farm. For these commodities, the ASCS yields are "T–factored" (i.e., reduced) to arrive at the approved yield. Generally for other commodities, T–yields are derived from corn yields when other commodity data are missing or sparse. Under the Category B, APH program, a producer's approved yield cannot be increased or decreased by more than 10 percent from one year to the next.

The Category C, APH program is used to provide insurance coverage for certain fruit, vegetable, and specialty crops when (1) a producer's records are generally available; and (2) county average yield data are unavailable or are generally not reliable or statistically significant enough to establish the area plan program yield (i.e., the area program insures all farmers producing a particular commodity within specified areas at the same yield level). The FCIC underwriting office for the area determines the yields for apples, canning and processing beans, figs, onions, peaches, pears, and stonefruits. For all other Category C, APH commodities, the approved APH program yield, for a producer with 4 to 10 years of acceptable production records, is calculated as a simple average of the yields from the 4 or more years of yield records. In general, those with less than 4 years of yield data are assigned an average yield based on a combination of the producer's available production history data and a determined yield (D–yield) for the commodity. The D–yield for the commodity is developed to reflect the average yield for the area. As a producer gains actual yield records, less emphasis is placed on the D–yield when calculating the producer's approved average yield. When the producer provides 4 or more years of acceptable production records, D–yields are no longer used. As in the case of Category B commodities, a producer's approved yield cannot be increased or decreased by more than 10 percent from one year to the next, even when D–yields are used to develop the approved yield.

Aside from Categories B and C, APH programs, there are several other yield plans used by the FCIC: Category A, Producer Listing Crops plan; Category D, Dollar Plan Crops; Category E, Tobacco Quota plan; and Category F, Tobacco Guarantee plan.

Currently, peanuts is the only commodity in the Category A, Producer Listing Crops plan. Approved yields for peanuts are determined on the basis of the producer's yield history as reported to, and maintained by, the ASCS. Category D, Dollar Plan Crops, includes citrus, forage seeding, hybrid seed, hybrid sorghum seed, peppers, raisins, fresh market sweet corn, and fresh market tomatoes. Coverage for Category D commodities is provided on the basis of a dollar amount of insurance per unit (acre or ton, depending on the commodity).

Yields for tobacco that is subject to ASCS production quotas are established under the Category E, Tobacco Quota Plan. Coverage is based on the ASCS poundage quota assigned to the producer. For certain other types of tobacco, the Category F, Tobacco Guarantee plan is used. Approved yields for Category F tobacco are determined on the basis of the producer's yield history as reported to, and maintained by, the ASCS.

For all producers who are not purchasing Federal crop insurance for the first time, the APH program is mandatory for the applicable commodities. First time purchasers, lacking certifiable records, simply use the T–yields for Category B commodities to develop a yield guarantee. This is a major deterrent to potentially new customers as yields developed by T–factoring are generally believed to be too low by most of the better farmers.

The mandatory APH program creates serious problems, as coverage offered through the APH program is too cumbersome to interest certain producers in many areas. Further, basing yields on a simple average causes APH program yields to be too low in areas that have experienced repeated disasters in recent years, since averaging yields from 3 or 4 disaster years in a yield series consisting of 4–10 years of yield records reduces the approved APH program yield too much.

The APH program's complexity has made it difficult for both producers and agents to readily determine a producer's yield and, subsequently, the value of Federal crop insurance to the producer. Consequently, farmers often become frustrated while waiting for approval of their yield guarantees and decide not to buy crop insurance. This reduced farmer participation increases operating costs for agents due to the repeated visits with producers who do not purchase insurance. During the Commission's public hearings, many producers of ASCS program commodities stated that they would purchase insurance if coverage was based on their ASCS yields or a percentage of their ASCS yields and if the sale could be consummated more expediently.

As the complexity of establishing yield guarantees can be a deterrent to farmers contemplating the purchase of Federal crop insurance, the system adopted by the FCIC should be relatively flexible and simple. However, the Commission also recognizes the need to allow farmers with proven yields that are higher than average to base their coverage on their higher yields.

The individual needs and financial situation of each producer will vary. Because the decision to buy crop insurance is an individual one based on each person's circumstances, it is important to ensure that the yield guarantee and the premium match the individual's needs. Also, the premium and the amount of insurance coverage offered must, to the greatest extent practicable, reflect the risk of the individual and the acreage insured. For any crop insurance program to be successful over the long-term, it is critical that the insurance coverage be sufficient to meet producers' needs. At the same time, the amount of coverage offered must not be excessive as this will result in substantial losses. Thus, from the standpoint of both the producer and the underwriter, the insurance product must be individualized as much as possible.

However, if the program is too complicated, many producers simply will choose not to participate. Because no single, national program can be the best program for every individual, the Commission believes that offering alternative coverage plans designed with a view toward providing adequate coverage and simplicity would increase participation in the Federal crop insurance program. The Commission believes that attracting new farmers into the Federal crop insurance program is extremely important.

For commodities that have ASCS program yields, the Commission recommends that farmers be permitted to base their approved program yield on their individual ASCS program yields. In cases where a farmer does not have an ASCS program yield for an ASCS program commodity, the FCIC should use the memorandum of understanding that it has with the ASCS to request the ASCS to develop a yield. In addition, the Commission recommends that the ASCS yields not be reduced (T–factored) unless the ASCS yield is the result of blending yields from acreage on which different farming practices were used on different portions of the acreage or on the same acreage but in different years. In some cases, for example, the ASCS program yield is based on combining the yields of irrigated acreage and nonirrigated acreage, while approved crop insurance yields for these different practices are separated due to the difference in the risk of loss associated with each. In areas where different practices are not being used, the ASCS yields would not be reduced.

In this report, the Commission is recommending that the ASCS calculate yields, for crop insurance purposes, by farming practice. When that has been accomplished, no reductions in the ASCS program yield should occur when that yield is used for crop insurance purposes. Until then, the Commission recognizes that there are different levels of risk associated with different farming practices. However, the Commission recommends that no reduction in the ASCS yield be made unless an analysis of the yield, by the FCIC, indicates a need for a reduction greater than 10 percent. In that case, the Commission recommends that the reduction be 10 percentage points less than the analysis indicated. For example, if the FCIC analysis suggests that a 20 percent reduction would be appropriate, the reduction would be only 10 percent. Once the ASCS establishes yields by practice, ASCS yields would not be T–factored under any circumstance.

Finally, the Commission recognizes that, in some cases, the FCIC analysis may suggest that an ASCS yield be increased. For example, if a producer chooses to insure only irrigated land, an upward adjustment in the ASCS yield should be in order if the ASCS yield is a blended yield. The Commission recommends that the FCIC make such adjustments.

Since soybeans do not have ASCS program yields, the Commission recommends that the ASCS be required to establish soybean yields for crop insurance purposes. Soybeans is among the top four commodities produced in the United States in terms of total acreage planted and the value of the commodity produced. However, the percentage of the total soybean acreage that is insured is relatively small. One problem that has affected participation levels in the Southeast is the adverse selection resulting from flaws in the initial design and execution of the program. These flaws have rendered the program nearly ineffective for better managers as a result of the increases in rates to offset indemnity payments. The problem was partially the result of the fact that soybean producers do not have ASCS yields and the method used by the FCIC to determine soybean yield guarantees does not result in realistic yields. Currently, for APH program commodities that do not have ASCS yields, but that are related to commodities with ASCS program yields, the FCIC develops and publishes yield tables based on the relationship of the commodity to the relevant ASCS program commodity.

Under the current memorandum of understanding between the FCIC and the ASCS, the ASCS is responsible for accumulating yield data for the FCIC and for collecting and validating producer acreage and actual production data for FCIC designated commodities, upon a producer's request. Additionally, under the memorandum of understanding, ASC county committees may assist in establishing farm yields when both agencies agree that such assistance would be helpful to the FCIC.

To enable soybean producers to obtain realistic yields that could be used to participate in the optional ASCS yield plan recommended by the Commission, the Commission recommends that the Secretary of Agriculture require the ASCS to establish soybean yields for crop insurance purposes. The use of ASCS established yields for soybeans could provide greater confidence and participation in the FCIC's soybean program by providing realistic yield guarantees, based on soybean production, for producers of this major commodity.

For commodities other than soybeans that do not have ASCS program yields, but that are related to commodities with ASCS program yields, the Commission recommends that the FCIC develop and publish yield tables based on the relationship of the commodity to the relevant ASCS program commodity. If a producer does not grow the ASCS program commodity that is related to the insured commodity, the yield for the insured commodity would be determined on the basis of the relationship between the average county yield for that commodity and the ASCS county yield for the relevant ASCS program commodity. If a producer grows the relevant ASCS program commodity, the yield for the insured commodity would take into consideration the relationship between the producer's individual yield for the ASCS program commodity and the ASCS county yield for the insured commodity. This relationship would then be used to develop the individual's yield for the related commodity on the basis of the county average yield for that commodity.

For commodities that do not have ASCS program yields and that are not related to commodities with ASCS program yields, the Commission recommends that producers be offered coverage based on the average county yield for the commodity. Under this option, the FCIC would publish county average yields that take into account differences in farming practices so that the yields are not unnecessarily reduced by a D–factor. In particular, the county yields should reflect the differences in production on irrigated and nonirrigated land.

For all commodities, the Commission recommends that producers be offered an optional, modified APH plan. To be eligible for this option, producers must have yield records for a minimum of 5 years. For producers of ASCS program commodities, the individual producer's ASCS farm program yield could be used for years in which no individual yield records were available, provided that the producer did not certify yields at the ASCS office for those years. In other words, if a producer has a certified ASCS yield for a particular year, yield records are obviously available and the producer should be required to provide such records and not be permitted to use the ASCS program yield for the APH program. The ASCS yields used in the APH program would be reduced or increased in the same manner provided for under the ASCS yield plan.

The APH program yield would be based on a simple average of the yields from 5 years and producers would have the option of using up to 10 years of yield records for the calculation. However, for producers with a minimum of 5 years of certifiable yield records, "Olympic averaging" could be used whereby the highest yield and the lowest yield would be dropped before averaging the remaining numbers. Producers who use ASCS yields for one or more of the 5 years would not be permitted to use "Olympic averaging." For ASCS program commodities, the approved APH program yield could not be lower than the producer's individual ASCS program yield for the commodity.

The Commission does not recommend changes in the Category A, APH program for peanuts, the Category D, Dollar Plan Crops, the Category E, Tobacco Quota plan, or the Category F, Tobacco Guarantee plan.

The Commission also suggests that, once the USDA has in place the digital soil mapping system now being developed, the FCIC consider the feasibility of offering producers the option of basing yield guarantees on soil classification information.

By having the ability to combine a variety of data relating to an individual field, such as soil surveys, aerial photos, soil classification, water resources, ASCS program yields, and past crop insurance program experience, it is possible that the crop insurance yield could reflect the potential yield and the likelihood of losses much more accurately than the current yield programs. Obviously, this system, if it is feasible for use in the crop insurance program, could result in better coverage for the producers and a better program overall for the underwriter.

It is also possible, as technology becomes more advanced, that this soil-based system could be combined with an individual's farm management practices, such as the fertilizer and pesticide application rates and the variety of seed planted. For producers using new farming technology, the yield guarantees established under this type of program could be much more accurate.

As new technology becomes available, the Commission believes the FCIC should explore the feasibility of various new systems for calculating yields.

The Commission believes that all of the above recommendations can be implemented administratively under provisions of existing law. However, if the Secretary of Agriculture elects not to implement the recommendations, the Commission urges the enactment of legislation to require the FCIC to carry out the Commission's recommendations.

UPDATE ASCS YIELDS

RECOMMENDATION:

- Require a revision of Agricultural Stabilization and Conservation Service (ASCS) established yields, for crop insurance purposes, to accurately reflect actual production and to establish farm yields by practice.

Under the Food Security Act of 1985, ASCS established yields have been "frozen" since the 1985 crops. For the 1988–90 crops of wheat, feed grains, upland cotton, and rice, the ASCS program yields are based on the average ASCS program yield on the farm during crop years 1981–1985, excluding the years with the highest and the lowest yield.

In the intervening years, technological advances have altered the yield potential of many commodities to the point that these frozen ASCS yields are unrealistic and ineffective measurements of production potential. As an example, the ASCS national average yield for corn is 104 bushels per acre, while the trend adjusted yield, adjusted for technological advances, of the Economic Research Service of the Department of Agriculture is 118.5 bushels per acre.

The problem confronting the Federal Crop Insurance Corporation (FCIC) in trying to establish production histories for individual producers is that most producers do not have sufficient records upon which to base a yield guarantee. In the absence of such records, the FCIC is forced to use ASCS yields, or some percentage of ASCS yields. As noted above, these yields generally understate the producer's actual potential. Actuarial problems can also develop when using these yields. This is because the FCIC yield is based on individual farming practices, such as irrigated versus nonirrigated corn acreage, and the ASCS yield is a blended yield, combining acreage without regard to farming practice. The rate for Federal crop insurance coverage on nonirrigated acreage will often be twice as high as that for irrigated acreage.

Under the memorandum of understanding between the FCIC and the ASCS, the ASCS is responsible for accumulating yield data for the FCIC and for collecting and validating, upon a producer's request, individual acreage and actual production data for FCIC designated commodities. Additionally, under the memorandum of understanding, Agricultural Stabilization and Conservation county committees may assist in establishing farm yields where both agencies agree that such assistance would be helpful to the FCIC. Currently, the ASCS is also authorized to establish yields for the 1986 and subsequent crops, upon request, for irrigated farms.

One of the Commission's recommendations in this report is for the FCIC to offer producers of ASCS program commodities an option of basing crop insurance coverage on their ASCS yields. To ensure that producers are provided with adequate coverage more closely reflecting producers' yield potentials, it is imperative that ASCS yields be updated for crop insurance purposes.

Therefore, the Commission recommends that the Secretary of Agriculture require the ASCS to revise, for crop insurance purposes, the ASCS program yields to reflect actual production. In addition, to eliminate any potential actuarial problems that may arise due to the FCIC's use of ASCS yields, the Commission also recommends that the Secretary require the ASCS to establish yields, for crop insurance purposes, by practice.

PROCESSOR YIELD GUARANTEE

RECOMMENDATION:

- Establish guarantees for sugar beets and sugarcane that are based on the yield of the commodity after its initial processing.

Currently, Federal crop insurance coverage is based on a producer's production, the amount of the actual commodity produced prior to any processing. The amount is expressed in terms of the number of commodity units, such as bushels, pounds, hundredweight, or tons, and is considered as the producer's yield.

While providing coverage based on the yields of unprocessed commodities works well for most commodities by adequately covering losses, producers of some commodities may actually benefit from weather conditions considered adverse for most other commodities. For example, during unusually dry years, producers of sugar beets and sugarcane generally produce fewer tons of unprocessed sugar beets or sugarcane per acre than normal. However, the unusually dry weather results in a higher sugar content per ton of unprocessed sugar beets or sugarcane. Conversely, in unusually moist years, producers normally produce more tons of sugar beets or sugarcane per acre; yet the sugar content per ton is lower than normal. Since producers of these sugar commodities are normally paid on the basis of sugar content, that is, for the pounds or tons of sugar produced from the unprocessed commodity rather than for the number of pounds or tons of sugar beets or sugarcane, a producer may actually suffer a loss in income when the number of tons produced per acre is greater than normal. In these years, sugar beet and sugarcane producers are often frustrated with the Federal crop insurance program.

To address this problem, the Commission recommends that the coverage guarantee for sugar beets and sugarcane (and other commodities experiencing similar problems) be based on the yield of the commodity after its initial processing. For sugar beets and sugarcane, the yields used for establishing insurance coverage should be based on the sugar content (that is, the pounds or tons of sugar produced from the unprocessed sugar beets or sugarcane) instead of on the number of pounds or tons of unprocessed sugar beets or sugarcane normally produced.

PRICE ELECTION LEVELS

RECOMMENDATIONS:

- Enact legislation to authorize the Federal Crop Insurance Corporation (FCIC) to determine a maximum price election level based on one of the following methods, whichever is appropriate—(1) a futures market–based price election level, (2) a price election level based on the contract price of a commodity, (3) a projected market price at harvest time election level, and (4) a price election level based on the variable cost of production of the commodity. However, in no case may the maximum price election be less than the projected market price at harvest time.

- Require the FCIC to announce the maximum price election level no later than 60 days prior to the sales closing date for insurance for the commodity and permit the producer to select any level up to the maximum level.

- Where appropriate, develop price elections that more accurately reflect the local price of commodities, and the differences in specific commodity varieties.

During the Commission's public hearings, witnesses repeatedly expressed concerns about the low price election levels.

Price election levels, used to determine the amount of indemnities paid to producers in the event of an insurable loss, are critically important to producers. The price election level multiplied by the amount of yield below the Federal crop insurance program yield guarantee equals the per acre indemnity payment for losses.

The Federal Crop Insurance Act only requires that one price election level be offered for each commodity. This level must be approximately the projected market price for the commodity and must be not less than 90 percent of the projected market price. Typically, the highest price election level offered is equal to 90 percent of the projected market price. Currently, for the major commodities, the FCIC offers three price election levels for each commodity.

The price election levels, for most commodities, vary from year to year since they are based primarily on a percentage of the projected market price. In order to provide information to producers in a timely manner, the price election levels are determined several months before the application deadline.

Because the projected market price is determined 12 months or more before the commodity is normally harvested, the highest price election levels available for most commodities often do not reflect market prices at the time of harvest. Generally, farmers become dissatisfied when the price election levels offered are below the market price of a commodity at the time of harvest. In addition, farmers often become disillusioned when the price election levels offered are below the local market price or when the levels fail to reflect the higher value of a particular variety of a specific commodity. Finally, producers often become frustrated with the program when the price election levels do not correspond to their cost of production.

When the market price near harvest time is substantially below the highest price election level for the commodity, there may be an increase in the incidence of farmers intentionally trying to lose their crops since they can receive a higher return from crop insurance than they can from the market. Such moral hazards exist when insured individuals can influence losses after crop insurance is purchased.

It is essential to increasing participation that the price election levels offered through the Federal crop insurance program reflect all of these concerns. To address these concerns, the Commission recommends that Congress enact legislation to authorize the FCIC to determine a maximum price election level based on one of the following methods, whichever is appropriate—(1) a futures market-based price election level, (2) a price election level based on the contract price of a commodity, (3) a projected market price at harvest time price election level, and (4) a price election level based on the variable cost of production of the commodity. The legislation should also ensure that the maximum price election level is not less than the projected market price at harvest time. The Commission believes that the maximum price election level should, at a minimum, be equal to the projected market price, not 90 percent of that price.

The Commission believes it is imperative that the maximum price election level be announced early enough to give producers sufficient time to decide whether crop insurance should be purchased. In addition, agents must have ample time to inform producers of this information. To sell crop insurance effectively, all aspects of the program must be known as early as possible. Thus, the Commission recommends that the legislation require the FCIC to announce the maximum price election level no later than 60 days prior to the sales closing date for insurance for the commodity.

In some cases, producers may not wish to purchase coverage based on a maximum price election level. For these producers, a lower price election level may be more appropriate to their farming operations. Because each farming operation is unique, it would be difficult to establish two or three price election levels that would fit every producer's operation. Thus, the Commission recommends that the legislation require the FCIC to establish a maximum price election level and permit producers to select any level up to the maximum price. In this way, producers can select the level that best fits their farming operations.

In the Commission's April report, the Commission recommended that the futures market-based price election level, currently available for soybeans, be expanded to other commodities that are traded on the futures market. In addition, the Commission urged the FCIC to consider extending this option to other commodities whose prices are closely correlated to a commodity traded on the futures market.

The Commission wishes to reaffirm its support for expanding this option to other commodities traded on the futures market and to recommend that this option be expanded, as soon as possible, to commodities the prices of which correspond closely to a commodity traded on the futures market.

The Commission believes the FCIC should, in establishing the maximum price election level, use a futures market-based price where that level is appropriate. For commodities traded on futures markets, the futures market-based price election level could be the most accurate estimate of the prices that will be prevalent near harvest time. The futures market-based price election level is established, near planting time, by using a percentage of the futures price for delivery at or near harvest time. For soybeans, the election uses 85 percent of the average of the November futures prices during the last 5 trading days in March.

As with the futures markets, contract prices provide a reasonable estimate of the price of a commodity at harvest time. Producers of commodities that are contracted in advance of planting are very familiar with the prevalent contract price in their area and normally estimate the value of their commodity at a price equal to the contract price. For these commodities, the FCIC should consider using the contract price as a basis for establishing the maximum price election level.

For commodities that are not traded on a futures market and are not contracted in advance of planting, the FCIC should consider basing the maximum price election level on a projected market price at harvest time (i.e., an estimate of the prevalent price at harvest time). The Department of Agriculture routinely estimates the expected market price of most commodities. These estimates could be used to establish the maximum price election level.

During the Commission's public hearings, most of the farmers, bankers, and agents expressed support for providing coverage at a level sufficient to cover the producer's cost of production. Thus, the Commission recommends that the FCIC consider establishing the maximum price election level at a price equal to the average variable cost of production for the State or region, whichever is more appropriate, in which the producer resides. For purposes of determining the average cost of production, the FCIC should use the latest cost of production data that are published by the

Economic Research Service of the Department of Agriculture.

One of the difficulties associated with basing price election levels on the market price of a commodity is that the level of protection can vary dramatically from one year to the next. Witnesses at the Commission's public hearings stressed the importance of providing a stable level of protection each year.

Using the variable cost of production to set the price has several advantages. Since the level of compensation is independent of the market price cycles, the problem of covering profits on some occasions and falling short of even variable cost on others is avoided. Protection is thus evenly distributed over time. This option also provides a uniform protection level and ensures a stable level of protection from year to year. Since this method of establishing the maximum price election level provides more stability, it should encourage more constant levels of producer participation. For many commodities, the Commission believes the price election level should be based on the variable cost of production.

There can be very large price differentials for a commodity, depending on the production area and the type of commodity. The price variations generally result from differences in transportation costs, especially for commodities such as corn, wheat, and soybeans. In addition, there can be very large differences in prices for different varieties of a specific commodity, such as the difference in price between Durum wheat and Hard Red Winter wheat. In many years, the price of Durum wheat may be substantially greater than the price of Hard Red Winter wheat.

The price elections offered for some commodities under the Federal crop insurance program often do not correspond with local market conditions or the greater values of particular varieties of some commodities. When the price election levels are substantially lower than the local price or the value of a particular variety of a commodity, crop insurance is often difficult to sell as producers perceive that coverage is inadequate.

The Commission recommends that the FCIC develop, to the extent practicable, price elections that more accurately reflect the variations in local prices and, where appropriate, the differences in value for different varieties of a specific commodity. The Commission does not intend for these separate price elections to extend to different kinds or types of a variety of a commodity, such as the different kinds of Durum wheat or soybeans.

PREVENTED PLANTING

RECOMMENDATION:

- Offer an effective prevented planting endorsement for excessive moisture.

Coverage for prevented planting began as a separate policy in 1982, and in 1986 was expanded to the prevented planting endorsement option for certain Agricultural Stabilization and Conservation Service (ASCS) program commodities.

Currently, an annual prevented planting endorsement is available for wheat, barley, oats, corn, grain sorghum, upland cotton, extra long staple (ELS) cotton, and rice. This endorsement is intended to provide protection to insured producers who are unable to plant their intended commodity due to insurable causes. To obtain coverage, the application must be signed and submitted by the sales closing date for the insured commodity. The number of acres intended to be planted must also be reported at this time. To be eligible for prevented planting coverage, the producer is required to participate, where applicable, in the acreage reduction or set-aside program for the insured commodity that is offered by the ASCS. The premium rate is based on the coverage level elected by the producer for the basic insurance protection, and the liability is 35 percent of the liability provided by the basic policy.

Producers have shown virtually no interest in adding the prevented planting endorsement, as it is currently structured, to the basic policy. The cost of the endorsement is exorbitant when compared to the meager coverage provided. In 1987, only five such endorsements were purchased, with no indemnities paid.

The Food Security Act of 1985 recognized the need to provide adequate protection for producers who are prevented from planting their commodities by requiring the Secretary of Agriculture to make prevented planting disaster payments to producers of wheat, feed grains, upland cotton, and rice if prevented planting crop insurance is not available to these producers. The enactment of this provision, in effect, forced the Secretary of Agriculture to provide the Federal crop insurance endorsement for prevented planting. However, the endorsement has been virtually meaningless.

For these reasons, the Commission believes it is imperative to provide a meaningful prevented planting endorsement, and therefore recommends that an endorsement for excessive moisture be established for prevented planting of all commodities produced annually. Under the endorsement, which would remain a separate policy, insurance coverage for prevented planting would be provided for all of a producer's acreage within a given county. To the extent practicable, the total acreage covered should take into consideration any acreage set aside under any ASCS acreage reduction program. Producers of fall-planted commodities are not normally required to enroll in an ASCS acreage reduction program until long after the commodity has been planted. Therefore, the Federal Crop Insurance Corporation (FCIC) should ensure that these producers are not treated inequitably when considering acreage reduction programs to determine the total acreage to be covered by the prevented planting endorsement.

Separate coverage would be made for spring-planted commodities and fall-planted commodities. Further differentiations may also be possible in the warmer parts of the country where longer growing seasons prevail, since producers in these areas may have three or more growing periods within one year.

The Commission recommends that the FCIC establish an adequate dollar amount of prevented planting coverage based on the average fixed cost of production in the applicable State. In establishing this coverage, the Commission recommends that the FCIC consider using an average of the six major commodities produced in the State.

LATE PLANTING

RECOMMENDATION:

- Review, and revise as necessary, all final planting dates and, in all policies for annual commodities , allow an automatic extension of up to 10 days, with a 1 percent per day decrease in the guarantee.

Currently, the actuarial tables used by the FCIC to establish premium rates include a final planting date for each insurable commodity. Any acreage not planted by that date is considered to be uninsurable acreage unless the producer has elected to include coverage for late planting.

For most commodities, a late planting agreement is available that provides for reduced insurance coverage at the same premium cost per acre that would apply if the crop had been planted by the final planting date. If an insured producer has not signed a late planting agreement form by the final planting date, acres planted after that date are uninsurable and must be shown as "uninsured acreage" on the acreage report. If a late planting agreement form is completed, insurance coverage is reduced by 10 percent for every 5 days that planting is delayed. Producers generally do not select the late planting option because they believe the cost of the policy is exorbitantly high for the amount of coverage provided.

In many instances, the final planting dates do not recognize the effects of all proper management practices and the shorter maturity periods required for some new seed varieties. In other instances, the unrealistic planting dates have been based on other commodities or areas to make administration of the program easier. Such improper or unrealistic planting dates place undue hardship on producers, who are already fighting weather hazards to get a crop planted.

To partially eliminate this problem, the Commission recommends that an automatic extension of the final planting date be inserted in all policies for annual commodities when adverse weather prevents planting the crop by the final planting date. The extension would allow for an additional 10 days to plant, with a 1 percent per day decrease in the coverage level that is selected by the producer. In addition, the Commission recommends that all final planting dates be reviewed and revised by the Federal Crop Insurance Corporation to reflect the current management practices and the shorter maturity periods of some new seed varieties.

EXPERIENCE RATING SYSTEM

RECOMMENDATION:

- Expand the experience rating system of premium discounts and surcharges that rewards or penalizes producers for their insurance experience.

Prior to the implementation of the actual production history (APH) program, an experience rating system was in place that adjusted premiums on the basis of a producer's loss experience. The system provided discounts for good experience (i.e., no losses) and surcharges for bad experience (i.e., multiple losses). In 1985, when the APH program was implemented, the Federal Crop Insurance Corporation (FCIC) determined that the experience rating system would no longer be necessary, as averaging 10 years of actual yield data would accomplish the same goal. Consequently, beginning in 1985, the premium adjustments for experience were no longer applicable to the programs for most commodities, and the premium reductions made under the experience rating system were scheduled to be phased out after the 1991 crop year. Currently, the experience rating system is only applicable to Florida citrus, forage seeding, cotton, and rice.

Premium rates are based largely upon the experience of those who have been insured in an area. For some commodities or areas, the premium rates for producers with low risks are often unrealistically high due to the fact that the majority of the producers have much higher risks and have experienced a greater frequency of losses. One of the problems with the APH program that producers have mentioned is that the formula results in coverage reductions as well as premium increases. Producers have also questioned whether the production history accurately reflects future yield expectations.

The Commission recommends that the FCIC expand the experience rating system of premium discounts and surcharges that rewards or penalizes producers for their insurance experience. An experience rating system rewards or penalizes producers for their experience with the Federal crop insurance program by reducing premiums for producers with no losses and increasing premiums for producers with multiple losses. Producers are familiar with the concept and believe that the system is equitable. The system will also encourage participation precisely because it rewards producers with low losses by reducing the premium rate.

An experience rating system has several advantages. Producers experiencing no losses will receive incentives to remain in the program. Keeping producers with low risks in the program can, in turn, improve the program's overall soundness. Those with infrequent, marginal losses will have an incentive to absorb those losses themselves in order to keep or improve their discounts. Those experiencing consistent losses will face increasing surcharges until the insurance is priced more consistently with the risk associated with their proven losses.

Under the experience rating system, a discount could be given for each year, up to 5 years, without a reported loss in excess of the premium paid, while a surcharge would be added for each year, up to 5 years, an indemnity payment in excess of the premium paid was made. To ensure that the experience rating system is meaningful to the producer, the Commission recommends that premiums be discounted by no more than 25 percent and that premiums be surcharged by no more than 50 percent.

EARLY CLAIMS ADJUSTMENT

RECOMMENDATION:

- Allow final claim adjustments, on crops yielding less than 20 percent of the program yield, to be based on the loss appraisal, thereby providing producers the option to harvest the remainder of the crop without a penalty.

The 1988 crop year disaster strained the loss adjustment capability of the Federal Crop Insurance Corporation (FCIC) and the reinsured companies with unprecedented workloads. According to the FCIC, approximately 220,000 policies were indemnified in 1988. As a result of the additional participation resulting from the Disaster Assistance Act of 1988, which required certain producers to purchase crop insurance, along with the expressed intent of congressional leadership to make crop insurance the major risk management tool of agriculture, the tremendous workloads experienced in 1988 are likely to be repeated. Therefore, immediate efforts must be made to develop methods to reduce the time, effort, and expense of performing claims work. The FCIC and the reinsured companies must be responsive to the increased number of producers entering the program.

With respect to most commodities, the current loss adjustment procedures require loss appraisers to perform a final measurement of acreage at the time of loss. The final acreage measurement is used to determine the amount of loss on which an indemnity payment is made. At the time of the appraisal, the producer must either harvest or destroy the crop. The Commission wishes to reaffirm its recommendation, in the April report, that the requirement to perform a final measurement of acreage be eliminated. Agricultural Stabilization and Conservation Service (ASCS) program participants routinely certify their acreage with their local ASCS office, which performs spot inspections on a percentage of the reports they receive to ensure reporting accuracy. For ASCS program participants, a greater reliance on the producer's ASCS acreage certification, coupled with increased spotchecking, should provide accurate loss adjustment. If the total acreage reported to the ASCS appears reasonable, the loss claim should be processed on the basis of the reported acreage. This would expedite the payment of claims and eliminate additional work by the FCIC and the reinsured companies. Appraisers should have the option of measuring acreage when the ASCS certified acres exceed uniform tolerance levels. Tolerance levels could be developed jointly by the FCIC and National Crop Insurance Services representatives.

Also, in the Commission's April report, the Commission urged the FCIC to adopt "settlement on appraisal" agreements. The Commission wishes to reaffirm its support of this recommendation. As stated above, the FCIC currently requires a producer to harvest a crop when an insured hazard destroys a majority of the crop, even when the value of the crop is not sufficient to pay for the harvesting cost. A crop must either be carried to harvest or destroyed, and the destruction must be certified by the producer. In some cases, producers are required to destroy the crop even though the destruction of the crop would subject the land to erosion. In other cases, requiring the producer to destroy or harvest the crop merely adds to the financial burden of a producer who is already suffering from lost income due to the loss of the majority of the crop.

The FCIC recognized the uneconomical nature of this requirement in 1988, when some producers were permitted to abandon acreage without harvesting if the expected yield was three bushels or less. The Commission believes that the producer is in the best position to weigh the advisability of harvesting such a meager yield, and that this decision should not be a factor in the settlement of the claim. For this reason, the Commission recommends that the FCIC allow final claims adjustment, on crops estimated to yield less than 20 percent of the farm's approved yield, to be based on the loss appraisal, thereby providing the producer the option to harvest the remainder of the crop without penalty.

FIRE AND HAIL EXCLUSION

RECOMMENDATION:

- Enact legislation to adjust the current limit on the amount of reductions in Federal crop insurance premiums when coverage for hail and fire losses is excluded from the policies so as to allow more actuarially sound and equitable reductions.

The Federal crop insurance program provides coverage for multiple perils covering all natural risks, including unavoidable losses due to drought, excessive rain, wind, hurricane, tornado, hail, and fire. Under the Federal Crop Insurance Act, a farmer is permitted to exclude coverage for losses due to hail and fire if private hail and fire insurance, in a dollar amount not less than that provided under the Federal crop insurance policy, is purchased. For a farmer who elects to obtain private hail and fire coverage, the Federal crop insurance premium is reduced by an amount equal to 40 percent of the prevailing average county insurance premium for private hail and fire insurance that provides the same amount of protection as would have been provided under the Federal crop insurance policy. However, a farmer's premium may not be reduced by less than 15 percent, nor more than 30 percent, of the full cost of Federal crop insurance coverage. In no event may the premium be reduced by an amount that exceeds the premium charged by the non-Federal insurer for comparable coverage.

The Commission believes that restricting the adjustment in the premium for the Federal crop insurance policy, as provided under existing law, sometimes unfairly limits the reduction that should take place when a farmer elects to obtain private hail and fire coverage. Accordingly, the Commission recommends that legislation be enacted to provide that the reduction in the premium, when coverage for hail and fire is excluded, be equal to the total savings in government costs, including the premium subsidy, that result from the exclusion of hail and fire perils from the multiple peril policy. The premium reduction should be based on accurate and reliable data that reflects the true cost of the hail and fire perils over a long period of time. In no case, however, should the reduction be greater than the amount actually paid for commercial hail and fire insurance for the same dollar amount of coverage that is provided under the Federal crop insurance policy.

UNIT DEFINITION

RECOMMENDATION:

- Standardize the unit definition within regions for Agricultural Stabilization and Conservation Service (ASCS) program commodities and soybeans,

> apply a premium rating policy to the entire farm, including division of units, and then permit a rate reduction for unit consolidation.

The Commission addressed the issue of insurance units in its April report, but the importance of insurance units to the producer is such that the Commission wishes to reaffirm its position. Throughout the Commission's 14 public hearings, producers have almost uniformly embraced the concept of unit division by farm and farming practice. Basically, a crop insurance unit is defined as that acreage of the insured commodity in the county that is taken into consideration when determining the coverage guarantee, the premium, and the amount of any indemnity (loss payment) for that acreage. If a producer wishes to insure one field planted to corn, for example, all acreage within the insurance unit must also be insured. In addition, loss payments are determined on the basis of the producer's production on all farms within the same insurance unit. For a producer with several farms in one insurance unit to qualify for indemnity payments, the producer's combined losses on all the farms must be higher than the amount of the deductible. In some cases, a producer can lose the entire crop on one farm and still not be eligible for payments. Each insured commodity has its own farm unit structure. In other words, a producer insuring two different commodities would have two basic units. Production on each insurance unit is considered without regard to production on other units for insurance indemnity payment purposes.

Generally, a basic insurance unit is all of the producer's land in a single county planted to one commodity that is either (1) owned or cash rented or (2) farmed for shares. The acreage a producer owns or rents for cash is considered to be a separate unit from the acreage a producer operates on a crop-share basis.

For tobacco, peanuts, cotton, and rice, the basic insurance unit consists of all insurable acreage planted to the commodity that is under one ASCS farm serial number. The Commission has recommended that, in a landlord/share tenant relationship, landlords for peanuts, cotton, rice, and tobacco farms be allowed to separate units by share tenant.

For some commodities, in some areas, the Federal Crop Insurance Corporation (FCIC) permits the basic unit to be divided into optional/guideline units. For these commodities, the basic unit is normally divided by legally identifiable section, by ASCS farm serial number, and by practice (i.e., irrigated acreage is separated from nonirrigated acreage). Where optional units are available, producers must have separate production records for each optional unit and the planting pattern in one optional unit cannot affect the planting pattern in another. For most commodities, producers must pay a surcharge equal to 10 percent of the premium for optional units.

There are inconsistent definitions of basic units for different field commodities in the same geographic region and nationally. In some areas of the country for some commodities, all farms within the same county that are farmed by the same manager are combined into one unit. In other areas, different farms can be separated into basic units. This causes confusion among farmers and agents leading to errors in sales, misunderstandings by producers, and program dissatisfaction. A clear understanding of the unit definition for each commodity covered is very important for both producers and agents. Similar field commodities in an area should have the same unit definition.

The definition of an insurance unit and the ability to have optional units are two of the major policy provisions that determine whether the policy is useful to a producer. Testimony received during the Commission's public hearings demonstrates that producers want the opportunity to separate units by farm and by farming practice.

The Commission wishes to reaffirm its recommendation, included in the April report, that the FCIC standardize the unit definition within regions for ASCS program commodities and for soybeans. Similar field commodities in an area should have the same unit definition. Basic units should not be larger than the acreage represented by an ASCS farm serial number. Additionally, the FCIC should provide optional units for both irrigated and nonirrigated land in all areas. The Commission does not intend for standardization of units to apply to specialty crops.

In addition, the Commission reaffirms its recommendation to implement changes in the FCIC's premium rating policy to provide a discount for unit consolidation rather than a surcharge for unit division for the 1990 crop year beginning July 1, 1989. Producers have objected to the idea of paying additional premiums for the privilege of separating their basic units into optional units for insurance purposes when the optional units reflect the actual farming practices they have employed for many years. There is some confusion surrounding the implementation of this recommendation. The FCIC has raised the printed premium rate, quoted on each policy, by 10 percent, to reflect the use of optional units whether or not they are available for the commodity insured. However, this rate will only be charged to those who actually divide their basic unit into optional units. Those who maintain their basic unit will receive a 10 percent discount from the quoted premium.

The Commission will continue to monitor the progress of the FCIC in implementing this important set of recommendations. Should the FCIC be unable to adequately address these issues, the Commission recommends that Congress enact legislation to ensure that these essential producer needs are met.

PILOT PROGRAMS FOR NEW METHODS OF INSURING AGAINST AGRICULTURAL RISKS

RECOMMENDATION:

- Enact legislation to specifically authorize the Federal Crop Insurance Corporation (FCIC) to conduct pilot programs to determine the feasibility of providing insurance coverage for agricultural risks through various methods not currently authorized under the Federal Crop Insurance Act.

There are various methods of providing risk protection to agricultural producers that have been developed and implemented in other countries. Some of these methods are not based upon providing insurance against losses caused by reduced commodity yields on individual farms. Rather, some programs are designed as preventive measures to reduce the likelihood of catastrophe. An example of this type of program is a health maintenance program that provides veterinarian services for dairy producers. Under the current statute, the FCIC would not be authorized to conduct a health maintenance pilot program for dairy or livestock producers since such a program would not be based upon losses of an insured commodity due to an unavoidable cause.

The Commission believes that it is important for the FCIC to explore alternatives to the present method of providing insurance against losses caused by reduced yields on individual farming units. Some of these methods may prove to be particularly useful for providing an effective risk-management option for producers of certain agricultural commodities; others may provide greater and more cost-effective protection against general agricultural risks than the current program. Therefore, the Commission recommends that Congress enact legislation to specifically authorize the FCIC to implement pilot programs for the purpose of determining the feasibility of providing insurance through methods not currently authorized by the Federal Crop Insurance Act. In such legislation, however, the FCIC should be precluded, as it is under the current statute, from conducting pilot programs where the coverage to be offered is generally available from commercial companies. In addition, if a pilot program offers coverage in an alternative manner to that offered under the current program, producers, in the area in which the pilot program is offered, should be given the option of participating in either program.

COUNTY LOSS PILOT PROGRAM

RECOMMENDATION:

- Enact legislation that requires the Federal Crop Insurance Corporation (FCIC) to implement a pilot program to determine the feasibility of a Federal crop insurance program that bases indemnity payments on a county's loss of production, rather than on an individual's loss of production.

The efficacy of any crop insurance program is often reduced as a result of moral hazard and adverse selection. A moral hazard occurs when an individual can, after the insurance is purchased, influence the outcome of an event, thereby increasing the likelihood of receiving an indemnity payment. Adverse selection occurs when an individual will correctly perceive that the risk of loss is smaller than the applicable premium implies, and thus choose not to participate. Adverse selection encourages those with the highest risks to participate in the program and discourages those with the lowest risks.

Since premium rates are based primarily on historical losses, loss experience resulting from moral hazard and adverse selection is factored into the rates, thereby increasing the rates for all participants in a particular area. Over time, the rates become too high for farmers with low risks. Thus, moral hazard and adverse selection can eventually destroy a crop insurance program. An ideal insurance program would minimize the possibilities for moral hazard and adverse selection.

In reviewing alternative designs for Federal crop insurance that represent significant departures from the current system, the Commission became interested in the concept of a program that provides insurance on the basis of a county's (or area's) loss of production, rather than on an individual's loss of production. This proposal was first advanced by Professor Harold Halcrow, University of Illinois, in his 1948 Ph.D. dissertation. The Commission believes a county loss program would greatly reduce, if not eliminate, moral hazard and adverse selection problems.

Therefore, the Commission recommends that legislation be enacted to require the FCIC to implement a pilot program to determine the feasibility of a Federal crop insurance program that bases indemnity payments on a county's loss of production, rather than on an individual's loss of production.

Under the county loss pilot program, farmers would select any dollar liability (i.e., dollars of coverage per acre) they desired, up to a maximum level determined by the FCIC. A reasonable limit might be 125 to 150 percent of the potential county yield multiplied by the maximum price election level.

To determine the potential county yield, the FCIC would need to develop trend adjusted yields (i.e., statistically developed yields that account for advances in technology) for each county using historical yield data from the National Agricultural Statistical Service (NASS). This analysis should use as many years of data as are available, as well as data from adjacent counties, to obtain the best scientific estimate of the potential county yield.

A maximum trigger, operating in the same manner as the current coverage levels, may be imposed so that indemnity payments would only be made if the county yield was 90 or 95 percent of the potential yield. The trigger level not only "triggers" payments, it also serves as the producer's deductible. Farmers could select levels lower than the maximum trigger. For example, a farmer may choose a trigger of 80 percent of the county potential yield. Given the trigger selected, the payment would be determined by multiplying the dollar amount of coverage (i.e., liability) by the percentage reduction in the county yield below the trigger.

A farmer, selecting $200 of coverage and the maximum trigger of 90 percent of the county's potential yield of 100 bushels, would receive indemnity payments anytime the actual county yield was below 90 bushels. If the actual county yield was 80 bushels, this would be 11 percent below the trigger and payments would equal 11 percent multiplied by the $200 liability or $22 per acre. This payment would be made regardless of the individual's actual farm yield.

The county premium rates would be based on actuarial data, including historical yields, for each county and the surrounding area. As with the current structure, rates would be tied to the trigger level chosen (i.e., the level of the deductible). Thus, rates for a trigger of 90 percent of county potential yields would be higher than the rates for a trigger of 80 percent of county yields. The premium payment would equal the premium rate multiplied by the dollar amount of coverage selected. For example, if a farmer selected $200 of coverage with a trigger of 90 percent of potential county yields and the premium rate was $6 per $100 of coverage, the total premium per acre would be $12.

There are questions as to how well this plan would meet the needs of individual farmers. However, the Commission believes it would be easier to provide lower deductibles by having triggers that would be close to the potential county yield since moral hazard and adverse selection would no longer be significant problems. Thus, the maximum payment trigger may be 90 to 95 percent of potential county yields as opposed to the current system that offers 75 percent of individual farm yields. Under such conditions, it is likely that a large number of farmers would have equal or greater protection than they can now purchase. In other words, even though the individual farm yields will not correspond perfectly with county yields, selecting higher coverage than under the current program increases the odds that the farmer will receive indemnity payments. Finally, since rates no longer would be influenced significantly by moral hazard and adverse selection problems, it is likely that rates would be lower than the current rates. In other words, the benefit to cost ratio should improve significantly, to the farmer's benefit.

The county loss plan is also appealing because it would reduce the administrative cost of the Federal crop insurance program significantly. Professional insurance personnel no longer would be needed to establish yield guarantees, as reliable estimates of individual farm yields would not be necessary. Also, farmers would not be required to keep records nor be subjected to paperwork requirements, as coverage would be based simply on the number of acres planted. This should make the option very appealing to many farmers. There would also be no need for claims adjustments on individual farms. Compliance efforts would thus be greatly reduced and rate making would be much simpler and less expensive than the current system.

The administrative savings resulting from the county loss plan could be passed on to farmers in the form of higher subsidies. If the Federal Government continues to pay the administrative costs of the crop insurance program as well as the 30 percent premium subsidy, every farmer could expect a long-term return that is greater than the premium costs. The current program does not ensure this. Since the county loss plan essentially could return more than the farmer's investment for more farmers than under the current system, participation levels under this plan should be very high.

For the pilot program to work, quality county yield data must be obtained. The FCIC may need to provide some resources to the NASS to improve the estimates of county yields. It may also be necessary to have resources readily available to make prompt assessments when harvested county yields may be below the potential county yield. This could be necessary to provide for timely payments, as harvested county yield data are not currently available until well after harvest.

The Commission recommends that the Department of Agriculture, in addition to conducting a pilot program that tests the marketability and the economic performance of alternative designs of county loss plans, conduct research using county yields and historical farm yields to determine how such an option would have performed for individual farmers over the past 20 years. This research should begin immediately so that the results could be used to help design the pilot program. The Commission recommends that the Department of Agriculture work with the land-grant universities in conducting this project.

For the pilot program, the Commission recommends that a selected sample of 60 counties be used to test this plan. For half of the counties, an optional Federal crop insurance policy rider for coverage based on 50 percent of the individual's approved yield should be provided. This latter option would provide the individual with catastrohpic protection if a producer sustains severe yield losses when a county loss does not occur.

The counties used for the pilot program should be selected to represent the production of corn, wheat, soybeans, and cotton in different regions of the country. Counties should be selected to represent various participation levels in the current Federal crop insurance program. Counties with high participation in the current program very likely will have a large percentage of farmers whose yields correspond closely to county yields. Counties with low participation in the current program will very likely have much lower premium rates under the county plan due to the fact that the current rates in these counties may be primarily the result of adverse selection and moral hazard.

The county loss plan should be offered as an option to producers, permitting them to choose between it and the regular Federal crop insurance program. The FCIC also should provide for interviewing farmers in the counties where this option is available to determine the reasons for their decision on participating and their satisfaction with the program if they choose to participate.

The Commission recommends that the pilot program be offered on a voluntary basis for not less than 3 and not more than 5 years. Within 1 year after the conclusion of the pilot program, the FCIC should report its findings to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. In particular, the FCIC should determine whether this plan (1) would result in greater participation for the various crops tested, (2) would be easier and less expensive to administer, and (3) would provide better actuarial performance.

Under existing law, the FCIC has general authority to conduct pilot programs. See section 508(i) of the Federal Crop Insurance Act. Therefore, it may be possible for the Corporation, as a matter of discretion, to conduct a county loss pilot program of the type described in this recommendation. The Commission urges the FCIC to conduct such a county loss pilot program without awaiting congressional action requiring the Corporation to do so. (NOTE: In another part of this report, the Commission is recommending that legislation be enacted to specifically authorize the FCIC to conduct pilot programs to determine the feasibility of providing insurance coverage for agricultural risks through various methods not currently authorized under existing law.)

PILOT PROGRAM—
85 PERCENT LEVEL OF COVERAGE

RECOMMENDATION:

- Enact legislation to require the Federal Crop Insurance Corporation (FCIC) to implement a pilot program for corn and a specialty crop under which producers would be permitted to purchase coverage equal to 85 percent of yields.

The Federal Crop Insurance Act authorizes coverage to be provided for any level up to 75 percent of the approved yield. In addition, the Act requires that, at a minimum, coverage based on 50 percent and 75 percent of the approved yield be offered. However, the 75 percent level is not subsidized beyond the 65 percent level. Indemnity payments are made when an insurable loss exceeds the difference between 100 percent and the coverage level selected. For example, a producer with a 50 percent level of coverage would receive an indemnity payment when experiencing a loss of more than 50 percent of the approved yield with the first 50 percent serving, basically, as an insurance deductible.

The FCIC currently has three levels of coverage, for most commodities, from which producers may choose. These levels represent 50, 65, and 75 percent of the approved yields for that commodity, based upon a producer's actual production history or on a percentage of Agricultural Stabilization and Conservation Service yields. These levels are not applicable to some specialty crops, where producers may be allowed to select coverage at some other level. In the Commission's public hearings, producers expressed frustration concerning the coverage levels, particularly when combined with the low yield guarantees offered by the FCIC. Repeatedly, during the Commission's public hearings, witnesses stated that even the highest coverage level, at 75 percent, was not sufficient coverage. Most witnesses recommended that coverage be increased to a level somewhere between 80 and 100 percent of approved yields.

In this report, the Commission is recommending several changes in the method of calculating yields that should alleviate part of the concerns about inadequate coverage. However, the Commission believes that the development of a higher level of coverage could provide a greater incentive for participation, particularly in low-risk areas. Producers in low-risk areas have a much lower probability of having yields below 75 percent of their approved yield than do those in higher-risk areas. Since producers are sensitive to the frequency of collecting on crop insurance, lower-risk producers are less attracted to the program. Providing a higher protection level would encourage low-risk producers to participate.

For this reason, the Commission recommends that Congress enact legislation to require the FCIC to implement a pilot program for corn and a specialty crop under which producers would be permitted to purchase coverage equal to 85 percent of yields.
The pilot program should be offered in counties or regions where participation in the Federal crop insurance program is low. The pilot program should be offered for 3 consecutive years in the same area so that adequate information concerning the effectiveness of the program can be obtained. Six months after the conclusion of the pilot program, the FCIC should be required to report its findings to the congressional agriculture committees. In particular, the FCIC should report the level of participation in the program, the frequency of indemnity payments, the loss ratio experienced in each year and for all years, the percent of the producers in the area that participated, and the participation levels in the Federal crop insurance program in the area for the 5 years prior to the implementation of the pilot program. The FCIC should also be required to conduct a survey of the producers in the area to determine the level of producer satisfaction with the pilot program and the reasons why producers participated or did not participate in the pilot program.

BROADENING PARTICIPATION

LEVEL AND DISTRIBUTION OF PREMIUM SUBSIDIES

RECOMMENDATION:

- Enact legislation to provide for (1) a 30 percent premium subsidy for all coverage levels up to 75 percent of program yields, and (2) a temporary, additional premium subsidy for all coverage levels up to 65 percent of yields.

The Federal Crop Insurance Act authorizes the Federal Crop Insurance Corporation (FCIC) to subsidize 30 percent of the premium cost for Federal crop insurance coverage, up to 65 percent of approved yields. If a producer chooses the coverage level based on 75 percent of the producer's yield, the dollar equivalent subsidy for the 65 percent level is applied to the premium cost of the total policy. In the Commission's public hearings, producers expressed their displeasure with this practice, saying that the premium doubled when increasing coverage from the 65 to 75 percent levels. As a result, the lower effective subsidy for coverage at the 75 percent level has discouraged producers from purchasing this high coverage option. Most witnesses recommended that the premium subsidy be equally applied to all levels of coverage. The Commission believes that producers need a greater level of subsidy at higher levels of coverage.

The Commission, therefore, recommends that Congress enact legislation to provide for a 30 percent premium subsidy for all levels of coverage up to 75 percent of yields. This should provide the needed incentive for producers to move from the 65 to the 75 percent level of coverage. Making the 75 percent coverage level more affordable should have a marked effect on participation levels, while increasing the level of satisfaction of those producers already within the program.

To solidify the participation of those entering the program as a result of the requirements of the Disaster Assistance Act of 1988, and to encourage other producers to enter the program, the Commission also recommends that Congress enact legislation to provide for a temporary, additional premium subsidy for all coverage levels up to 65 percent of approved yields.

For the first year only, the supplemental subsidy would be 20 percent. The supplemental subsidy, to be phased out over a 5-year period, would, for the first year, result in a temporary 50 percent subsidy for the levels of coverage up to 65 percent of approved yields. The supplemental subsidy, reduced by 4 percentage points each year, would be 16 percent, 12 percent, 8 percent, and 4 percent for the second, third, fourth, and fifth year, respectively.

Participation levels should increase dramatically, particularly at the lower coverage levels, and premium rates should improve as a result of the expected increase in participation in low-risk areas. When implemented along with the Commission's recommendations to improve approved yields, this increased subsidy should greatly lessen, if not eliminate, the need for other forms of disaster assistance.

While the adoption of this recommendation would require an increase in the Federal crop insurance program's budget, the Commission believes that this would be justified, and more than offset, if it were to result in significantly lessening, if not in eliminating, the need for the ad hoc disaster assistance programs that have cost a total of $4.7 billion since 1983 (excluding the disaster assistance provided to livestock producers).

The implementation of these recommendations would increase the cost of the Federal crop insurance program by an estimated $325 million for the 1991 crop year. For a detailed cost estimate, see "Evaluating the Costs of Federal Crop Insurance", pages 81-84.

ELIMINATE DISCRIMINATORY PROVISIONS IN OTHER USDA PROGRAMS

RECOMMENDATION:

- Ensure that no agricultural program, including disaster assistance programs, reduces or limits the benefits of the program due to a producer's receipt of Federal crop insurance indemnity payments.

In the Federal Crop Insurance Act of 1980, Congress affirmed that crop insurance would be the Federal disaster assistance program for agricultural producers in the United States. If crop insurance is to replace the ad hoc disaster programs of the past, consistent incentives must be developed to encourage producers to cover their production risk through crop insurance, rather than disaster aid.

Conversely, economic disincentives for the purchase of crop insurance, resulting from past public policy decisions, should be eliminated. For example, the Disaster Assistance Act of 1988 includes an overall limit on the amount of Federal crop insurance indemnity payments and disaster assistance payments. The producers most likely affected by this "cap" were those who purchased the high coverage and price election levels in crop insurance, and experienced the highest yield losses. Producers who purchased crop insurance at lower levels, or who did not purchase insurance, were not affected by this provision. Thus, under some conditions, producers with Federal crop insurance received less disaster payments than they would have received had they not purchased a high level of coverage.

Another disincentive that should be addressed is in the emergency feed program. In implementing the Emergency Livestock Feed Assistance Act of 1988, which was enacted as part of the Disaster Assistance Act of

1988, the Department of Agriculture has determined that crop insurance indemnity payments are to be considered as "feed on hand" when determining the amount of assistance available to a livestock producer. The maximum quantity of feed assistance available to livestock producers is 10 pounds of grain equivalent per animal unit. The maximum quantity of assistance is reduced by the amount of grain and feed inventory on hand. If the feed loss is covered by Federal crop insurance, the net indemnity payment (gross indemnity minus premiums paid) is added to the total feed grain inventory. Thus, once again, producers who purchased Federal crop insurance receive less assistance.

Under the Food Security Act of 1985, the Secretary of Agriculture has the discretionary authority to make low-yield and prevented planting disaster payments. In addition, the Secretary may reduce the disaster payment by taking into consideration the producer's receipt of other forms of Federal disaster assistance, including Federal crop insurance indemnity payments. While the Secretary has not used his discretionary authority under the 1985 Act to make disaster payments, giving the Secretary the authority to reduce the disaster payments of producers who purchase Federal crop insurance sends the wrong signal to agricultural producers.

Every time an agricultural program discriminates against producers who purchase Federal crop insurance, the producers question whether they made the right decision by purchasing insurance. Because of the discriminatory nature of some agricultural programs, many producers believe they are better off without Federal crop insurance.

The Commission recognizes that, in enacting overall limits to all forms of assistance, Congress is attempting to limit overall budget expenditures. However, the Commission believes that if Federal crop insurance was consistently supported, overall budget expenditures would be significantly less over the long-term than is currently the case, as the need for other forms of disaster assistance would be lessened, if not eliminated.

The Commission recommends that Congress enact legislation to remove Federal crop insurance indemnities from consideration when calculating USDA disaster and commodity program payments. In particular, the Commission recommends that Congress enact legislation directing the Secretary of Agriculture to exclude Federal crop insurance indemnity payments in administering the Emergency Livestock Feed Assistance Act of 1988. In addition, if Congress extends the provision in the Food Security Act of 1985 that authorizes the Secretary to make low-yield and prevented planting disaster payments, the Commission recommends that Congress delete the Secretary's authority to reduce these disaster payments by taking into consideration Federal crop insurance indemnity payments.

When enacting any agricultural legislation, the Commission recommends that Congress ensure that no agricultural program, including disaster assistance programs, reduces or limits the benefits of the program due to a producer's receipt of Federal crop insurance indemnity payments.

The Commission also recommends that the Secretary of Agriculture follow a similar course of action in administering statutes in which Congress is silent on the question of taking into consideration Federal crop insurance indemnity payments. In that regard, the Commission urges the Secretary to reconsider the Department's determination that crop insurance indemnity payments are to be considered as "feed on hand" under the Emergency Livestock Feed Assistance Act of 1988.

PROGRAM EXPANSION

RECOMMENDATIONS:

- Enact legislation to require the Federal Crop Insurance Corporation (FCIC) to offer insurance coverage for a commodity in all counties in a State if the FCIC offers such coverage in any county in the State.

- Expand the Federal crop insurance program to insure all commodities grown commercially in the United States.

There are over 400 commodities produced commercially for food and fiber in the United States. Yet, Federal crop insurance was only available for 49 commodities in 1989. For commodities produced on approximately 50 million acres, Federal crop insurance is not available. For example, despite the fact that hay is the second most important commodity produced in terms of the value of production, the Federal crop insurance program's forage production and seeding policies are only available in a small number of counties, 143 and 63, respectively, where the commodity is produced. Fresh tomatoes are insurable in only 49 counties. Federal crop insurance is available for stonefruit in only 16 counties. Often, Federal crop insurance for a commodity is available in some counties in a State but not in all counties. Federal crop insurance is generally available, in all growing regions, for corn, grain sorghum, wheat, rice, barley, oats, cotton, and soybeans. On average, the remainder of the insurable commodities are only insurable in approximately 111 of the 3,022 insurance counties in the United States.

For the overwhelming majority of commodities produced in the United States, coverage is not available in any county. For example, policies have not yet been developed for many of the fruit, nut, berry, and vegetable commodities.

Primarily due to the low market prices of many of the major commodities produced in the United States over the past 7 or 8 years, many farmers have begun to diversify their farming operation by producing commodities not traditionally produced commercially in the area. As farmers have diversified, their need for new Federal crop insurance programs has increased.

Currently, the FCIC examines several factors in assigning priorities to commodities for program development. Some of the main factors the FCIC uses in determining development priorities are: the importance of the commodity in terms of value, acreage, number of producers, sales potential, and interest expressed by farmers, credit agencies, and others; the availability of sufficient actuarial data for the establishment of sound rates and coverages; the time required to develop policy provisions; and the availability of resources for developing and administering the program. Once this extensive evaluation is completed, the new commodity programs require the approval of the FCIC's Board of Directors. After a new program is approved, additional time is required to train agents and inform producers about the program prior to its implementation. On average, the FCIC estimates that the development of a new commodity program requires the completion of more than 72 tasks over a period of 33 months.

In the Commission's 14 public hearings, producers repeatedly requested that the FCIC be required to insure all commodities grown commercially in the United States. The legislative purpose of the Federal crop insurance program is to promote the national welfare by improving the economic stability of agriculture through a sound and comprehensive system of nationwide crop insurance. Until Federal crop insurance is available in all areas for all commodities produced in the United States, the comprehensive system of crop insurance will not be achieved and the need for additional disaster assistance payment programs will continue to be necessary as long as some commodities remain uninsurable.

For these reasons, the Commission recommends that Congress enact legislation to require the FCIC to offer insurance coverage for a commodity in all counties in a State if the FCIC offers such coverage in any county in the State. In addition, the Commission recommends that the Federal crop insurance program be expanded to insure all commodities grown commercially in the United States. To facilitate program expansion, the Commission also recommends that the FCIC secure the assistance of private companies and individuals by contracting for the development of rate determinations, yield data, claims adjustment, and any other functions deemed appropriate to providing insurance coverage for all commercial commodities in all areas.

PREMIUM RATING SYSTEM

RECOMMENDATIONS:

- Establish premium rates on the basis of losses expected to occur in the future, using only the experience data that reflect normal risks, rather than relying on all losses that have occurred in the past.

- Review all county premium rates for each commodity and develop county rates on the basis of data on the county and the counties in the surrounding area.

Premium rates are used to calculate the cost of insurance coverage per acre. Thus, establishing fair and equitable rates that accurately reflect the risks associated with offering insurance is critical. Currently, for most commodities, premium rates are based on actuarial data for each county, including loss experience, farming practices, and adjustments for the likelihood of catastrophic events.

In the past, the Federal Crop Insurance Corporation (FCIC) has had great difficulty in establishing accurate premium rating systems. When the FCIC uses data from all prior experiences to establish rates for current programs, modified to eliminate the previous risk exposure, the rates often do not accurately reflect the true risks associated with the production of the commodity in a particular county under the modified program.

When errors in actuarial rating for new programs occur due to general inexperience or a lack of sufficient information, the FCIC often experiences huge losses in the early years of a program. When these losses are included in the data used to determine future premium rates, the rates are often set at levels much higher than are necessary and can affect producer participation for many years. For example, Wisconsin corn producers are still experiencing inflated rates as a result of a rating error in the early 1970's that failed to anticipate the value of using damaged corn for silage, thereby resulting in tremendous losses in that State.

To correct this type of problem, the Commission recommends that rates be based on the expectation of future losses, using only experience data accurately reflecting normal risks, and not on experience data that is a result of limited rating information. Losses that occur as a result of the lack of sufficient rating information should be considered as part of the developmental costs of the program and not used to develop rates. The Commission also recommends that for all new or recently developed programs, representatives of the FCIC's actuarial division annually update all interested persons in the program and explain the process for establishing rates, for the coming year, that exclude development costs.

In addition, the Commission recommends that the FCIC review all county premium rates for each commodity and that the FCIC develop county rates on the basis of data from the individual county and from counties in the surrounding area.

Establishing and adjusting premium rates on the basis of data relevant only to the county does not, in most cases, accurately reflect the risks of farming in that county. In a given year, a natural disaster can occur in one county and not in an adjacent county. This does not, however, mean that natural disasters will occur in this manner every time. Yet, the premium rates for these two counties are adjusted on the assumption that natural disasters will occur in this manner. In addition, taking into consideration the history of losses under the Federal crop insurance program when calculating the rates may not accurately reflect the potential for future losses. Historical participation levels have been very low in some counties. In these cases, farmers with higher risks have generally been the participants in the program. However, as Federal crop insurance has improved in the last few years, producers with typically higher yields and lower losses have begun to purchase crop insurance, thereby reducing the overall loss potential for the county. However, that fact is not recognized in the rates.

In some areas, the rate in one county, with similar soil types, historical weather patterns, and normal crop yields, may be substantially different from the adjacent county. Some producers with two fields divided only by the county line often will pay premiums for insurance on one of the fields at a rate twice the rate for the other field. Most producers simply cannot understand the need for the illogical disparity.

In most cases, the risks associated with providing crop insurance would be more accurately reflected if the rates were based on information from an individual county and the surrounding area. In some areas, using data from an entire USDA Crop Reporting District may be appropriate.

PROGRAM SIMPLIFICATION

IMPROVED PRESENTATION OF COVERAGE

RECOMMENDATION:

- Change the presentation of the insurance guarantee to a dollar amount of coverage per acre.

The current Federal crop insurance program provides three options for yield coverage and three price election levels for most commodities. These alternatives combine for nine choices based on some percentage of average yield. This approach to presenting crop insurance coverage hampers sales because it is hard to understand. In part, the difficulty arises from the fact that the Federal crop insurance presentation is different from that used by the crop hail industry and from the way farmers normally think about their finances. In the crop hail industry, the agent can offer a dollar liability policy on the acreage insured without needing to make cumbersome calculations (i.e., the coverage guarantee is expressed in a set amount of dollars per acre of coverage). In farm budgets, for example, income and cost are usually determined on the basis of income and cost per acre. Currently, the agent must work through the yield coverage at the three levels under the various prices to inform the farmer of the protection in dollars per acre.

The Commission recommends that the presentation of the insurance coverage guarantee be changed to a dollar amount of coverage per acre. Quite simply, specifying a dollar per acre value is all that is needed.

Under this method, once the dollar amount of coverage that meets the producer's needs is chosen, a corresponding level or percentage of coverage would be selected. For example, a corn grower may have an average yield of 100 bushels per acre. If the maximum coverage level was 75 percent (i.e., a 25 percent deductible) and the maximum price was $3, the maximum dollar coverage available would be $225 per acre (75 percent of 100 bushels multiplied by $3). A producer could determine that coverage of $175 per acre would be adequate. The producer could obtain that level of protection by choosing a deductible greater than 25 percent or by selecting the 25 percent deductible with a lower price election level.

If the producer selects the maximum coverage and produces an average of 55 bushels per acre, the percent of loss would be determined by subtracting the actual yield (55 bushels) from the program yield (100 bushels) and then dividing the result by the program yield (100 bushels). [(100 minus 55) divided by 100 equals a loss of 45 percent.] The amount of loss for which a payment would be made would be determined by subtracting the percent of the deductible (25) from the percent of the total loss (45), which would result in a payable loss of 20 percent. The indemnity payment would be calculated by multiplying the percent of the payable loss (20) by the price election level selected ($3) by the program yield (100 bushels). In this example, the indemnity payment would be $60 per acre.

To implement this proposal, the Federal Crop Insurance Corporation would need to develop premium rates on the basis of the cost per $100 of insurance protection offered for each coverage level. The Commission understands that nothing would prevent an insurance agent from currently making a presentation of insurance in accordance with this recommendation.

IMPROVED PRESENTATION OF RATE AND COVERAGE EXCEPTIONS

RECOMMENDATION:

- Clearly state in the policy all exceptions, requirements, restrictions, or other provisions concerning coverage and ensure that they are presented in a manner to permit the automation of the data using computer technology.

Currently, a variety of cumbersome manual systems is used to designate exceptions to the general rules for both rates and coverages of individual growers. The exceptions are presented as listings of farm serial numbers, delineations on maps, and special written agreements, among other things. This can make crop insurance difficult to sell and can increase the likelihood for error or omission of the exception information in the sales process. Even though the regular actuarial presentation is computerized, the records of producers must still be manually checked in cases where an exception is applicable. In many cases, it is questionable whether the exceptions are necessary and whether the level of actuarial precision is as great as the fine-tuning through the numerous exceptions would imply. In addition, thousands of footnotes are currently used to delineate these exceptions.

Presentation of these exceptions is now extremely detailed and cumbersome for agents. Currently, it is impossible to automate the policies so that agents, reinsured companies, and master marketers can easily determine whether or not exceptions actually apply to their clients. This can result in increased errors that often lead to producer dissatisfaction with the program and legal action against the agent and the company involved.

The Commission recommends that the Federal Crop Insurance Corporation delete all of the current footnotes, and clearly state in the policy itself all exceptions, restrictions, limitations, requirements, or other provisions concerning coverage under a specific crop insurance policy. The Commission further recommends that such exceptions, restrictions, limitations, requirements, or other provisions be presented in a manner to permit the automation of the data so as to streamline the administration of the program, reduce the cost of administration, lower the rate of errors, and improve the image of the program.

IMPROVED PROGRAM ADMINISTRATION

CASH DISCOUNTS

RECOMMENDATION:

- Offer producers cash discounts for the early payment of premiums.

Under the Federal Crop Insurance Act, premiums are to be collected from producers at such time, or times, as the Board of Directors of the Federal Crop Insurance Corporation (FCIC) may determine. Currently, the due dates for the payment of premiums for insurance on most commodities are set to coincide with harvest. The penalty for the late payment of premiums on policies issued directly by the FCIC is 1.25 percent per month if the payment is not made within 30 days of the due date. Similar penalties are authorized for policies issued by the reinsured companies.

Collection of the premiums from producers who do not experience crop losses is difficult in some cases. Some producers are reluctant to pay the premium when they know that they will not receive any benefits, even though there is a penalty imposed for late payment.

The difficulties encountered in collecting premiums from these producers could partially be eliminated if there was an incentive to pay premiums prior to the harvesting of the commodity.

The collection of premiums under the Federal crop insurance program differs substantially from that of most commercial insurance. Under the Federal crop insurance program, premiums become due at the end of the coverage period, whereas premiums for most commercial insurance become due at the beginning of the period of coverage. In addition, if premiums for commercial insurance are not paid as they become due, coverage is not generally continued, except to the extent required under State law. Therefore, the policyholder of commercial insurance has an incentive to pay the premiums in a timely manner. The Federal crop insurance program does not provide this incentive.

The Commission recommends that the FCIC provide cash discounts to producers who pay their Federal crop insurance premiums, or any portion thereof, before harvest. For producers wishing to make such an early payment, the premium should be discounted to reflect the time-value of the payment based on the time-value of money during the period from the date of payment to the normal premium due date. In calculating the discount, the cost of funds to the government should be used to determine the time-value of money during this period.

DEVELOP TRACKING AND INDIVIDUAL RISK UNDERWRITING SYSTEMS

RECOMMENDATIONS:

- Enact legislation to authorize the Federal Crop Insurance Corporation (FCIC) to require participants to provide Social Security numbers, or individual tax identification numbers where appropriate, and develop a tracking system using such numbers to identify and monitor individual producers attempting to abuse the program.
- Expedite the development and implementation of an individual risk underwriting system to correct rating anomalies.

Currently, producers with a history of excessive losses and producers who fail to pay their premiums can leave the program and return under a different name or insure with a different company because no record of the individual's previous history in the program is available. The FCIC does not currently have the authority to develop a system that tracks program participation, loss history, or premium payment history on an individual basis. Monitoring program participants by Social Security and tax identification numbers could be beneficial in eliminating these types of program abuse which result in increased program costs for producers and taxpayers.

Therefore, the Commission recommends that legislation be enacted to authorize the FCIC to require participants to provide Social Security numbers, or individual tax identification numbers where appropriate, and to develop a tracking system using such numbers to identify and monitor the program participation and loss history of individual producers. The system should be designed in a manner that ensures that producers can be identified individually.

The current rate making system appropriately takes into consideration normal yield deviations. However, the current system is ineffective in appropriately rating producers who experience abnormal fluctuations in yields from year to year. The FCIC is considering the development of an individual risk underwriting system (IRUS) that would identify participants who experience losses greater than normally encountered. The IRUS would allow the FCIC to review the histories of individual producers and make adjustments to premium rates and approved yields, as appropriate, in order to correct rating anomalies (deviations in excess of normal variations in yields) and to prevent program exploitation. The Commission recommends that the FCIC expedite the development and implementation of the IRUS.

PENALTY FOR FALSE CERTIFICATION BY FARMERS

RECOMMENDATIONS:

- Enact legislation to provide for the imposition of civil penalties for producers who intentionally submit incorrect data or information.
- Develop language for all policies that could be used to assess liquidated damages against producers who intentionally submit incorrect data or information.
- Work with reinsured companies in developing language for inclusion in policies on the effect of producers intentionally supplying false information to a company.

As stated in the Commission's April report, few remedies are currently available to a reinsured company that discovers that a producer has falsely certified insurance information. Unless a State criminal conviction can be secured for fraud, the company can do little more than correct the misinformation. Consequently, a few individuals have abused the program with impunity. However, a person who intentionally certifies false information directly to the Federal Crop Insurance Corporation (FCIC) is subject to criminal sanctions and penalties imposed under the Federal criminal and civil fraud statutes.

As also stated in the April report, companies issuing multiple peril policies in their own name may be reinsured by the FCIC under the Federal Crop Insurance Act. There is, therefore, an adequate basis for the addition of cautionary language alerting policyholders to the fact that intentionally supplying false information to a reinsured company would be a violation of Federal law. Currently, no procedure exists for referring these cases for action under the Federal criminal and civil fraud statutes. The Commission believes that the integrity of the program is adversely affected by allowing this situation to continue.

The Commission recommended in the April report that producers who intentionally overlooked recorded data available to them, or who acted with reckless disregard for truth and accuracy, should be subject to the payment of liquidated damages unless it is established that the errors involved were unintentional. Additionally, the Commission recommended that the FCIC work with reinsured companies to add appropriate cautionary language to policies regarding the effect of producers intentionally supplying false information to a company.

In its April report, the Commission also recommended that the FCIC develop language that might be used in all policies to assess liquidated damages against producers for supplying erroneous data that is inaccurate beyond specified tolerances and that can be shown to have been submitted in reckless disregard for truth and accuracy.

In response to the recommendations included in the April report, the FCIC will establish a formal referral and tracking mechanism for possible violation of civil and criminal fraud statutes.

However, the FCIC did not address the Commission's recommendation regarding the development of cautionary language that could be added to all policies and the recommendation regarding liquidated damages.

The Commission reaffirms its support of these two recommendations. In addition, the Commission recommends that legislation be enacted to specifically provide for the imposition of civil penalties to cover those situations where producers intentionally supply incorrect data or information.

NEED FOR AN INDEPENDENT APPEALS PROCESS

RECOMMENDATION:

- Enact legislation to require the establishment of an independent appeals system to review adverse determinations by the Federal Crop Insurance Corporation (FCIC).

In administering the Federal crop insurance program, the FCIC may take action that adversely affects the interests of individual producers, master marketers, and reinsured companies. Even though opportunities are provided for administrative appeals of such adverse decisions, the appeals procedures do not provide for adjudication of the issues in a manner that is independent of the manager of the FCIC.

Under the current FCIC appeals system, the hearing officer is always a subordinate of the manager of the FCIC. It is also the manager of the FCIC who approves the rules upon which an appealed decision is based. In addition, the regulations do not provide for the compulsory attendance of witnesses or for cross-examination. Furthermore, under the general appeals procedures of the FCIC, the manager is not precluded from determining any question arising under the program to which the appeals regulations apply or from reversing or modifying any determination made by a hearing officer.

The Commission recommends that legislation be enacted to provide an adversely affected party with an opportunity for an independent administrative review of decisions of the FCIC. In adopting such legislation, the Commission recommends that Congress consider providing for review by an independent Administrative Law Judge, or, alternatively, by the staff of an appeals section created within the FCIC. If a separate appeals division is established, the Commission recommends that it be patterned after the appeals division of the Farmers Home Administration (FmHA). The national appeals division of the FmHA is empowered to decide appeals from decisions of administrative officials of the agency without being responsible to those officials for the performance of any other duties or functions.

IMPROVING THE ADMINISTRATION OF THE FCIC

RECOMMENDATION:

- Improve the efficiency of the program by, among other things, developing an improved and streamlined organizational structure for the Federal Crop Insurance Corporation (FCIC); establishing a committee to advise the Board of Directors of the Corporation; using outside contracting to the greatest extent possible; and enacting legislation to establish, over the long-term, a new corporation to carry out the Federal crop insurance program.

Under the Federal Crop Insurance Act, the FCIC is a corporate body and an agency in the Department of Agriculture. Its principal office is required by statute to be in Washington, D.C., but it may establish other offices and agencies elsewhere in the United States under rules and regulations prescribed by its Board of Directors. The management of the Corporation is vested in the Board, subject to the general supervision of the Secretary of Agriculture. The Board is composed of the manager of the Corporation, the Under Secretary or Assistant Secretary responsible for the Federal crop insurance program, the Under Secretary or Assistant Secretary responsible for USDA farm credit programs, one person experienced in the crop insurance business, and three persons who are active farmers. The three farmer-members, the member who is experienced in the crop insurance business, and the manager are appointed by, and serve at the pleasure of, the Secretary. The Secretary must ensure that the farmer-members are Federal crop insurance policyholders and are broadly representative of the various types of agriculture and regions in the United States. The manager of the Corporation is the chief executive officer of the Corporation.

The Secretary is responsible for appointing such other officers and employees of the Corporation as are necessary for the transaction of its business. Except for hourly or temporary employees, the appointment and compensation of such officers and employees are subject to the civil service laws and regulations of the United States. As of September 24, 1988, the FCIC had a total of 811 permanent full-time employees, 213 part-time employees, and 8 intermittent employees.

Under the current organizational structure of the FCIC, in addition to the manager, there is a deputy manager who is the chief operating officer of the Corporation, a regulatory and procedural development staff, an information and governmental affairs division, a program planning, evaluation and appeals division, and five operational offices, all of which report to the office of the manager. The five operational offices, each of which is headed by an assistant manager, are the Office of Administration, the Office of Actuarial and Underwriting Services, the Office of Claims and Field Services, the Office of Program Administration, and the Office of Compliance. The Office of Actuarial and Underwriting Services and the Office of Claims and Field Services have offices in Kansas City, Missouri. In addition, there are 11 field underwriting offices, 16 field service offices, and 5 compliance offices.

The Federal Crop Insurance Act of 1980 signaled a new beginning for the Federal crop insurance program. That legislation authorized the involvement, to the maximum extent possible, of private, nongovernmental organizations in all aspects of the crop insurance program. It was the first significant change in the role of the FCIC since 1948. The mission of the FCIC changed from being the sole provider of Federal crop insurance to becoming both a deliverer and regulator of the program. After the enactment of the 1980 legislation, the FCIC established a dual system of delivering the program through private companies and organizations.

The FCIC now uses private sales and service contractors (master marketers) to sell its directly-issued policies, and it reinsures private, risk-bearing companies (reinsured companies) that provide and service their own insurance policies. Under both types of policies, identical coverage for the same price is offered to producers. Master marketers provide management, supervision and training of at least 25 agents, and contract servicing, with the exception of loss adjustment. All loss adjustment and claims functions on policies sold by master marketers are carried out by the FCIC through loss adjustment contractors. Reinsured companies offer Federal crop insurance under their own brand names and provide marketing, distribution, servicing, training, quality control, premium collection, and loss adjustment functions.

Even though Federal crop insurance has benefited from many program improvements and from the involvement of the private insurance industry in the program's development and delivery, the current organizational structure and staffing of the FCIC are very similar to those that existed in 1981. The organizational structure that was put in place in 1981 was largely in response to the need to rapidly expand the program as a result of the 1980 legislation. To accomplish this expansion, the FCIC's various functions were divided among numerous, small organizational units.

In 1981, 97 percent of all policies were issued directly by the FCIC. However, by 1988, only about 15 percent of such policies were issued by the FCIC, while approximately 85 percent were issued by the private reinsured companies.

While the percentage of Federal crop insurance policies issued directly by the FCIC has declined dramatically in recent years, the Commission believes that there is still a need for the FCIC to directly issue policies to ensure the continued availability of the Federal crop insurance program to all farmers. During the Commission's field hearings, concern was expressed that it may not always be economically feasible for private companies to serve producers of all commodities in all areas of the country. Therefore, the Commission recommends that the FCIC continue to directly issue crop insurance policies, and to provide for the sale of such policies by master marketers, so long as such procedure is needed to ensure the availability of effective crop insurance protection to all producers.

The Commission believes that the FCIC could serve producers more effectively if the organizational structure of the Corporation was restructured to more accurately reflect the degree to which it functions as a reinsurer, a direct underwriter, and a regulator of the Federal crop insurance program.

Unfortunately, the organizational structure of the FCIC continues to be fragmented and decentralized. The authority to perform the various functions of the Corporation exists in the field offices, in the Kansas City office, and in the FCIC headquarters in Washington. This fragmentation of authority often results in unreasonable delays in, or the total failure of, the decision-making process because decisions are referred to the next level. Furthermore, many decisions are made on a regional basis and are not consistently followed across the Nation. These difficulties have been exacerbated by the lack of continuity in the position of the manager of the Corporation since 1980 and of insufficient involvement on the part of the Board of Directors in establishing policies for the management of the Corporation and the program.

To eliminate these problems, the Commission recommends that a new organizational structure of the Corporation be established that clearly delineates where the authority and responsibility for required action lie. In addition, the Commission recommends that the Board of Directors of the Corporation become much more active, both in terms of time and attention, in the formation of management policy for the Corporation and that the Secretary establish an advisory committee, composed of producer and insurance industry representatives, as soon as possible, to advise the Board on program matters. Further, the Commission recommends that, for the next few years, the manager of the Corporation report directly to the Secretary to ensure the highest level of attention to the Federal crop insurance program and to improve the coordination of the program with the various commodity, credit, and rural development programs administered by the Department.

The Corporation's organizational structure should reflect the strengths of both the government and private individuals, companies, and organizations in order to gain the best possible use of all available resources for furthering the development and delivery of the Federal crop insurance program. Therefore, the Commission recommends that, under the Secretary's leadership, the organizational structure of the FCIC be streamlined to improve the management efficiency of the program.

The FCIC resources, staffing patterns, and functions should be realigned and functional organizational units should be re-established on a consolidated basis so as to improve decisionmaking and provide clear responsibility and accountability for the functions of the Corporation's mission.

The Commission also recommends that the Corporation be centralized to facilitate maximum efficiency. The principal organizational units should be headed by responsible professionals serving under an appointive procedure that fosters increased accountability and allows for their expeditious replacement if performance falters.

The Commission further recommends that the FCIC field offices be consolidated to provide for increased efficiency and coordination and to best use the most talented employees in the most productive manner possible. Each field office director should be responsible for the management of all field activities (claims, underwriting, and compliance). Four to six field officers are probably all that are necessary to provide for an efficient and responsive organization. The field office directors should be appointed by the manager in order to ensure maximum responsiveness and performance in achieving the goals established by the Board and the manager.

Since 1980, some progress has been made toward improving the Federal crop insurance program. The number of commodities for which insurance is provided and the number of counties where crop insurance is available have dramatically increased. In addition, program improvements have enhanced the appeal and usefulness of the Federal crop insurance program as a risk management tool. Several successive delivery contracts have evolved, and each can be viewed as an improvement over those that preceded it. Each refinement has contributed to a more successful accomplishment of the mission of the Corporation.

However, the FCIC has been unable to solve a number of insurance product and administrative problems, including the release of the annual program in a timely manner for use by the delivery systems. The inability to assemble and manage these program support functions is largely the result of inexperience with modern ways of actuarial design and management within the FCIC, and the FCIC has been unwilling to use outside resources to assist it in handling the program support functions. Furthermore, the Corporation does not effectively meet the needs of the private delivery systems. The Commission believes that many program support functions could be performed with greater efficiency and cost-effectiveness through contracting with private organizations and individuals.

Currently, administrative and operating expenses account for a significant portion of the FCIC's budget. For fiscal year 1988, approximately $198 million was expended for administrative and operating expenses. Of this amount, approximately $65 million was expended for FCIC administrative expenses, $11.7 million was expended for master marketers' expenses, and $121.5 million was expended for reinsurance expenses. The FCIC administrative expenses included $3.7 million for Agricultural Stabilization and Conservation Service (ASCS) agreements and $19.9 million for loss adjustment expense for government operations in fiscal year 1988. For fiscal years 1989 and 1990, the administrative and operating expenses of the FCIC are estimated to be approximately $202 million and $225 million, respectively.

The FCIC currently maintains personnel to perform a variety of administrative and operating functions, such as data processing, development of policies and forms, development of claims procedure, actuarial statistics, development of training materials, conducting training for FCIC staff and contractors, and research and development activities. Many of these activities are carried out in the FCIC offices in Kansas City. For fiscal year 1989, the estimated salaries and benefits for personnel in the Kansas City offices for certain functions are as follows: training center—$412,455; claims division—$1,708,500; data automation division—$1,792,123; actuarial statistics division—$1,549,467; and product control and underwriting standards division—$898,500. The estimated personnel expenses for the field underwriting offices for fiscal year 1989 total approximately $4.7 million.

Many of the support functions performed by FCIC personnel are directly related to the FCIC's direct sales activities and could be performed with greater efficiency and higher quality by private organizations operating under contractual arrangements with the FCIC. With the relatively small amount of direct business, the Commission does not believe that it is cost–effective for the FCIC to maintain staff to handle all of these functions.

The Commission recommends that the FCIC enter into contracts with private organizations and individuals for the purpose of adjusting claims on its policies, processing its policies, and performing underwriting functions. Additionally, the Commission recommends that the FCIC begin to contract out the performance of many of the other support functions as soon as possible.

The Commission also recommends that the FCIC develop standards for the performance of these functions and monitor such performance to ensure that the standards are being met by the contractors. Contracting for these functions would not jeopardize the users or deliverers of Federal policies as there are a number of qualified private organizations and individuals that would likely submit bids for such contracts.

The Commission believes that government direction, regulation, oversight, and control of the program, when combined with the use of private contractors to perform various program support functions, will permit the program to be administered much more effectively and efficiently, providing for a more advantageous use of the strengths of both the government and private enterprise. Improving the administration of the program should help fulfill the objective of the 1980 legislation that crop insurance be the primary means of providing disaster assistance to American agricultural producers.

The reorganization of the Corporation and the use of private contractors to perform many of the program support functions should greatly reduce the staffing needs of the Corporation. The Commission believes that the FCIC should ensure that the adverse effects of reducing personnel are minimized. The Commission recommends that consideration be given to, among other things, establishing an early retirement program and providing for priority re-employment rights with other USDA agencies for displaced FCIC employees.

The Commission believes that most, if not all, of the above proposals can be effectuated without additional legislation. However, to the extent that such legislation may be required, the Commission recommends its enactment by Congress.

The Federal crop insurance program may have gained a poor reputation as a result of program abuse and errors that occurred as the program was expanded rapidly in the early 1980's. This negative reputation may discourage participation, and the Commission believes that it is necessary to create a new, service-oriented image for the governmental agency that administers the program.

To ensure that the Federal crop insurance program can be operated in a manner that is more responsive to the risk-management needs of agricultural producers and to provide the program with a new image, the Commission recommends that, over the long-term, Congress enact legislation to establish a new Corporation to administer the program.

The new Corporation should have the primary functions of (1) managing the program, (2) providing oversight and controls over all aspects of the program, (3) issuing crop insurance policies directly to the extent necessary to ensure that a reliable source of insurance coverage is available to all producers, and (4) providing reinsurance services to private, risk-bearing companies that market and service their own qualified insurance policies.

The Commission believes that the Board of Directors of the new Corporation should be a broad-based, working board. To accomplish this, the Commission recommends that the legislation provide for a Board composed of individuals appointed by the Secretary to fixed terms of office. The initial terms of office of the members of the Board should be of staggered duration so that the terms of the members do not all expire on the same date in the future. The legislation should also require the Board to meet on a regular basis. The Board should, among other things, have the responsibility for establishing broad policy and management objectives for the Corporation and ensuring that those policies and objectives are carried out in an effective manner. The Board should ensure that all private deliverers of Federal crop insurance are given the opportunity to compete fairly in the market place. In addition, the Board should be required to periodically evaluate the delivery systems to ascertain the degree to which they are providing the most effective and efficient service possible.

Since the enactment of the 1980 legislation, there have been numerous managers of the FCIC. The lack of continuity in the management of the FCIC is one of the reasons why improvements in the Federal crop insurance program have been slow. To address this problem, the Commission recommends that the legislation empower the Board to appoint, subject to the approval of the Secretary, a professional manager for the Corporation who would serve as its chief executive officer. To ensure continuity and stability in the position of manager, the legislation should provide for the manager to be appointed to a fixed term of office.

The Commission believes that the policies of the Corporation should be developed in consultation with individuals with expertise outside of government. Therefore, the Commission recommends that a permanent advisory committee for the Board be established by the legislation. The establishment of an independent advisory committee should help ensure that the Federal crop insurance program is operated in a manner that is responsive to the changing risk-management needs of American agriculture. The Commission believes that the advisory committee should be appointed by the Secretary and should be composed of an equal number of representatives of agricultural producers and the crop insurance industry.

To ensure that the manager will be able to effectively carry out the responsibilities of the chief executive officer of the new Corporation, the Commission recommends that the legislation prescribe an organizational structure for the Corporation. The legislation should require the Corporation to have four divisions: (1) an actuarial division, (2) a program delivery division, (3) a compliance division, and (4) a management support division. To ensure accountability, each of the divisions should be headed by an appointed official with clearly defined responsibilities and authorities.

Each division should be given (1) approval authority for the program activities assigned to the division, (2) the support necessary for the contracting of functions, and (3) the necessary data processing support to accomplish the needs of the division. Placing data processing support facilities, as well as contracting and approval authority, in each of the divisions would ensure that the head of the division will have the necessary tools to carry out the policies and directives of the manager and the Board. In addition, each division should have the authority to carry out planning and evaluation activities as well as the regulatory and contracting-functions of the division.

The actuarial division should have the following functions: (1) product and price responsibilities, including the authority to contract for actuarial studies and for product development, and (2) reinsurance actuarial activities.

The program delivery division should be given the responsibility to contract with delivery organizations, monitor the program delivery operations of the delivery systems, and provide account executives to work with the delivery organizations to ensure the uniform delivery of insurance to all farmers.

The compliance division should have the responsibility for the oversight of corporate operations and program activities under the jurisdiction of the other divisions, using, to the maximum extent possible, computerized audits in assessing the level of compliance with program rules, regulations, policies, and procedures.

The management support division should have the following functions: (1) finance, budgeting, and accounting, (2) personnel, and (3) support for, among other things, planning and evaluation, management of information, and data processing oversight activities in all four divisions.

The Commission recommends that the legislation provide for an orderly phase-out of the FCIC after the new Corporation is established.

UPDATE STATUTE

RECOMMENDATION:

- Enact legislation to update the Federal Crop Insurance Act by eliminating certain obsolete provisions and making the reinsurance program an integral part of the statutorily prescribed crop insurance program.

The Federal Crop Insurance Act was amended in 1980 to, among other things, direct the Federal Crop Insurance Corporation (FCIC) to use private insurance companies, to the maximum extent possible, to carry out the program. Since that time, there has been a steady increase in the number of crop insurance policies issued by the private reinsured companies. In 1988, approximately 85 percent of all premiums collected were for policies issued by the reinsured companies, and only 15 percent were for policies issued directly by the FCIC.

Despite the dramatically increased role of the private reinsured companies in delivering Federal crop insurance, the Federal crop insurance program continues to be developed and managed as if the majority of the policies were issued directly by the FCIC. Too, the Act still contains obsolete language relating to the establishment of a test program for reinsurance to be in place for the 1982 crops.

The FCIC collects and analyzes actuarial data and develops the rates used in the program. Under the statute and the regulations, the reinsured companies have been given little or no specific responsibilities in these areas. Therefore, the Commission recommends that Congress update the Act by eliminating obsolete provisions relating to reinsurance and providing for a greater role for the reinsured companies in the development of actuarial data, premium rates, and new programs. Of course, the FCIC should retain final responsibility in these areas.

THE ROLE OF THE FCIC AS A REINSURER

RECOMMENDATION:

- Require the Federal Crop Insurance Corporation (FCIC) to reconsider the limitations the Corporation is placing on its role as a reinsurer of risks assumed by private crop insurance companies.

The Commission believes that a standard reinsurance agreement under which reinsured companies will be able to build a reasonable underwriting reserve is critical to the success of the Federal crop insurance program. As stated in the Commission's April report, with respect to adequate levels of participation, the two delivery systems—reinsured companies and master marketers—must have long-term contracts with the FCIC that are sound and stable. In the absence of stable delivery systems with a long-term commitment to the multiple peril crop insurance program, participation levels for Federal crop insurance will never be satisfactory.

From the inception of the reinsurance program following the enactment of the 1980 amendments to the Federal Crop Insurance Act until July 1988, the FCIC recognized the principle of commercial reinsurance that the books of business (i.e., policies) retained by the primary insurers often—if not always—have net loss or gain ratios different from the loss or gain ratios of the book of business derived from cessions to the FCIC by companies reinsured by the Corporation. However, since July 1988, the FCIC—upon the advice of the USDA's Office of the General Counsel—has taken the position that the Federal Crop Insurance Act prevents the Corporation from permitting a reinsured company to keep a net underwriting gain derived from its books of retained business if the entire book of business (ceded plus retained) originally written by the company in the insurance year shows a net underwriting loss.

During the course of its work, the Commission was advised that two law firms representing insurance industry trade associations had been requested by their clients to review the question. Both concluded that the position of the FCIC was not supported by a proper reading of the Federal Crop Insurance Act.

In an effort to reconcile the apparent conflict between the position of the FCIC and the views of other counsel, the Commission asked Mr. James D. Keast of the law firm of Carmody, MacDonald, Hilton and Wolf, St. Louis, Missouri, to advise the Commission on this subject. Mr. Keast is a former General Counsel of the United States Department of Agriculture. He was asked to furnish his opinion as to whether the current form of the standard reinsurance agreement that permits companies to keep net underwriting gains on retained business, regardless of the gains or losses experienced on ceded business, is in accord with the law. Mr. Keast furnished his opinion on June 8, 1989. A copy of his opinion is printed in Appendix E of this report.

> Mr. Keast concluded, in pertinent part, that:
>
> The Reinsurance Agreement carries out the intent of Congress and is consistent with the Act. Moreover, the Reinsurance Agreement is consistent with sound reinsurance principles.
>
> If there are any inconsistencies with the Act in the Federal Crop Insurance Program, it would appear to be a function of the rate of premiums being set by the

> FCIC and not the reinsurance provisions of the Reinsurance Agreement.
>
> We are not rendering any opinion as to whether the actual percentage sharing of losses and premiums in the loss limiting provisions of the Reinsurance Agreement is consistent with the Act.

Mr. Keast's opinion reinforces the Commission's view that the reinsurance feature of the crop insurance program should be operated under sound reinsurance principles and in a manner similar to normal commercial practices. Accordingly, the Commission strongly urges the Secretary of Agriculture to reconsider the FCIC position that there can be no underwriting gains realized on retained business so long as the ceded business and the retained business taken together show a loss. The Commission believes that the Secretary should direct the Corporation to follow the customs and usages of the reinsurance business in this regard. Moreover, the Commission believes that if the program is modified in accordance with the other recommendations it is making, participation by farmers will significantly increase as more aggressive sales efforts are made. As a result, actuarial soundness may be achieved without abandoning the principles of commercial reinsurance that Congress expected would guide the Corporation.

If the FCIC does not accept these principles as a guide, the Commission believes that Congress should enact legislation that specifically directs the Corporation to do so. It is imperative that the FCIC be required to reconsider the limitations it is placing on its role as a reinsurer so as to guarantee long-term contracts between the FCIC and reinsured companies that are sound and stable.

FINDINGS

PARTICIPATION IN THE FEDERAL CROP INSURANCE PROGRAM

Section 5(a)(1) of the Federal Crop Insurance Commission Act of 1988 requires the Commission to study participation in the Federal crop insurance program and to identify the States and commodities with the most serious lack of participation. In the Act, Congress found that despite recent increases in the acreage covered by Federal crop insurance, the level of farmer participation in the program in most agricultural areas is below what Congress anticipated when the Federal Crop Insurance Act of 1980 was enacted.

Measuring Participation

One difficulty in evaluating the performance of the Federal crop insurance program is the determination of an accurate and appropriate measure of participation. Data deficiencies compound the problem. One measure of participation is the number of farmers who purchase Federal crop insurance. However, data on the specific number of farmers who have Federal crop insurance are simply not available and would be difficult to compile at the present time for a number of reasons.

The Federal Crop Insurance Corporation (FCIC) maintains data on the basis of the number of policies (i.e., contracts) rather than the number of individual farmers. Tabulating the number of insurance policies is not appropriate because not all Federal crop insurance policies earn premiums every year.

Once a producer signs up for Federal crop insurance, the policy continues year after year until the producer specifically cancels the policy. A producer would thus have a policy even though no commodity was planted in a particular year. When the producer does not plant a commodity covered by the policy, the producer merely reports that no acreage was planted and the policy will not earn any premiums for that commodity that year. Using the number of policies earning premiums is also not an appropriate measure of the number of farmers because the FCIC, for its direct policies, generally issues one policy for each commodity and one farmer may have five or six policies. At the same time, the reinsured companies, for their policies, generally use one generic policy for each farmer and add endorsements for the various policies. Determining the exact number of producers with Federal crop insurance may be easier if Congress enacts the Commission's recommendation to authorize the FCIC to use Social Security numbers in a tracking system that identifies individual producers.

One source of information for assessing the number of farmers buying Federal crop insurance is the 1989 national survey conducted by the Economic Research Service (ERS) of the USDA in cooperation with the University of Maryland. Although the sample of farmers surveyed was only those growing corn, wheat, soybeans, cotton, rice, and grain sorghum, the results can be applied generally to all farmers. This survey suggests that approximately 27 percent and 44 percent of the farmers purchased Federal crop insurance for the 1988 and 1989 crops, respectively.

Because of the requirement in the Disaster Assistance Act of 1988 for certain producers to purchase crop insurance for the 1989 crops, it has been estimated, on the basis of this survey, that approximately 15 percent of the producers who purchased Federal crop insurance for the 1989 crops would not have done so without this requirement. Thus, for the 1990 crops, a realistic estimate of participation would be 37 percent of all farmers.

Using the number of farmers to determine the efficacy of the Federal crop insurance program is not necessarily an appropriate measure of performance. A farmer may purchase Federal crop insurance for one commodity and leave the other commodities produced uninsured. A farmer may choose to insure one farm in one county and not insure a farm in another county. In addition, there is not an even distribution of acreage among all farmers; a relatively low percentage of all farmers produce most of the commodities in the United States.

Another potential measure would be to use the total liability associated with Federal crop insurance. However, this measure is also not appropriate because it reflects the differing value of alternative commodities and the variation of commodity values from year to year.

Finally, the most common approach for measuring participation is using the percentage of eligible acreage insured. Although this sounds fairly straightforward, there is no consensus on an appropriate measurement of either eligible acreage or acres insured.

Generally, all planted acres for insurable commodities would be considered eligible acres. However, in the case of grain crops, it can be argued that very small acreages should not be included since it may be unreasonable to expect operators of such farms to purchase Federal crop insurance. These farmers generally have off-farm sources of income that provide risk protection. Also, operators of small acreages would often find the additional benefits offered by the Federal crop insurance program less than the additional costs of obtaining the information needed to make an informed decision. For purposes of this report, data from the National Agricultural Statistics Service (NASS) including all planted acres are used unless noted otherwise. In these cases, potential acres, adjusted slightly downward by the FCIC to take into consideration very small acreages, are used.

Two measures of insured acres are available: (1) gross acres and (2) net acres. Gross acres include the total acreage when one party in a share–lease agreement enrolls in the Federal crop insurance program, even though the other party may choose not to enroll. For example, if a landlord obtains Federal crop insurance on his or her share of 100 acres and the tenant does not, gross acres would count all 100 acres as being covered. Net acres adjust for the share arrangement. Thus, if the share arrangement in this example was for each party to have 50 percent of the crop, then only 50 acres would be counted. The Commission chose to use net acres insured as the appropriate measure of participation in the Federal crop insurance program.

A General Review of Participation Data

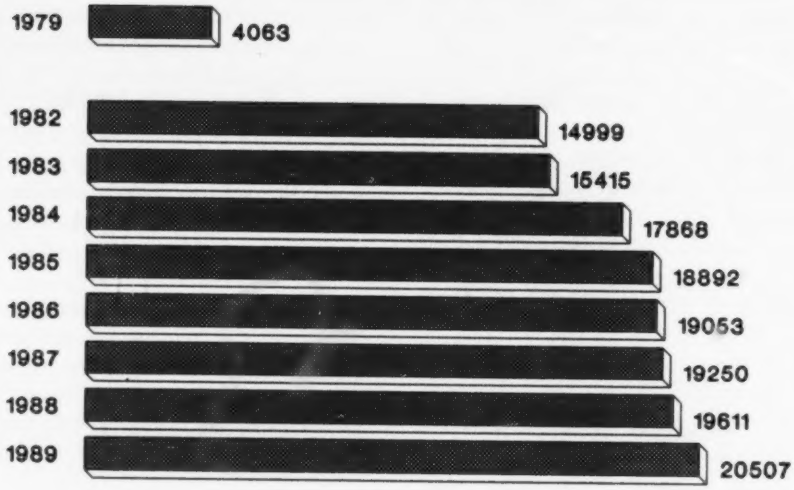
The Federal Crop Insurance Act of 1980 was intended to greatly increase participation in the Federal crop insurance program by providing a premium subsidy of up to 30 percent of premiums and expanding coverage to new commodities and counties. The number of counties with Federal crop insurance available for at least one commodity has doubled from 1,526 for the 1979 crops to 3,022 for the 1989 crops, nearly all of the Nation's counties. The number of county programs (the sum of commodity programs offered in each county) has increased dramatically from just over 4,000 for the 1979 crops to about 20,507 for the 1989 crops. (See figure 1.) The value of the coverage for the Federal crop insurance program has tripled from $2.1 billion for the 1979 crops to an estimated $6.9 billion for the 1988 crops. Preliminary estimates suggest this value may exceed $11 billion for the 1989 crops.

Prior to the introduction of the premium subsidy, participation in the Federal crop insurance program was approximately 10 percent of potential acres, a much smaller base at that time. After the premium subsidy was introduced, in terms of net acres, participation increased to approximately 15 percent of potential acres for the 1981 and 1982 crops. (See figure 2.) Participation declined to slightly less than 12 percent in the 1983 crop year due to the large amount of acreage idled under Agricultural Stabilization and Conservation Service (ASCS) acreage reduction programs. There was steady growth in participation from the 1983 crops to the 1988 crops (at roughly 2 percentage points per year). Preliminary estimates for the 1989 crops suggest that approximately 38 percent of potential acres are insured. Figure 2 presents participation based on both net acres and gross acres.

Participation varies significantly by region and commodity. Therefore, a closer examination of the data is in order. Since FCIC's forage policy is relatively new and available in only limited areas, hay has been excluded from this analysis. However, hay is a significant component of acreage planted to principal commodities produced in the United States. For crop years 1986 to 1988, the average of all acreage planted was 314 million acres. Hay comprised 20 percent of this acreage with over 63 million acres harvested. Seven commodities comprise well over 90 percent of the remaining 251 million acres of planted crops—corn, wheat, soybeans, oats, grain sorghum, barley, and cotton. In fact, corn, wheat, and soybeans make up over 75 percent of these remaining planted acres.

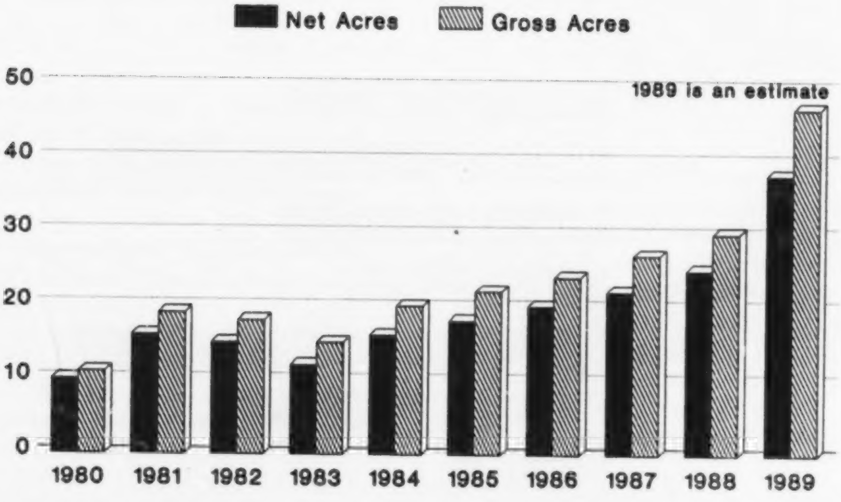
Given the dominance of the seven principal commodities (has excluded) in terms of total planted acres, increased participation for these commodities is needed.

Fig. 1: Growth in County Programs
Total Number of County Programs



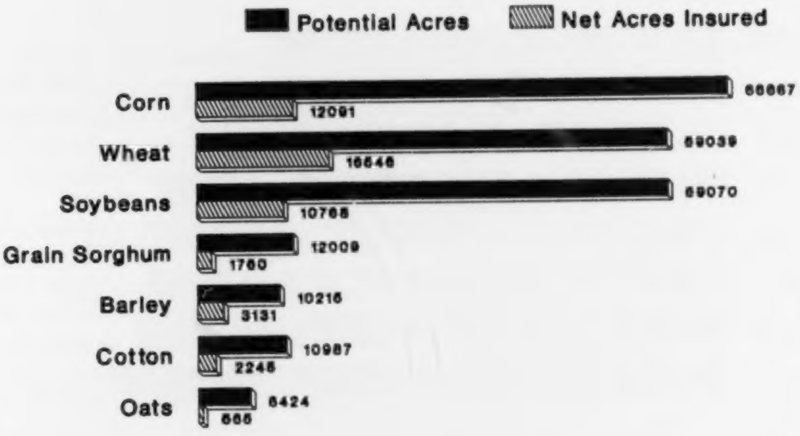
Years are crop years

Fig. 2: Growth in Participation: Net and Gross Insured Acres for 1980-89 Crops



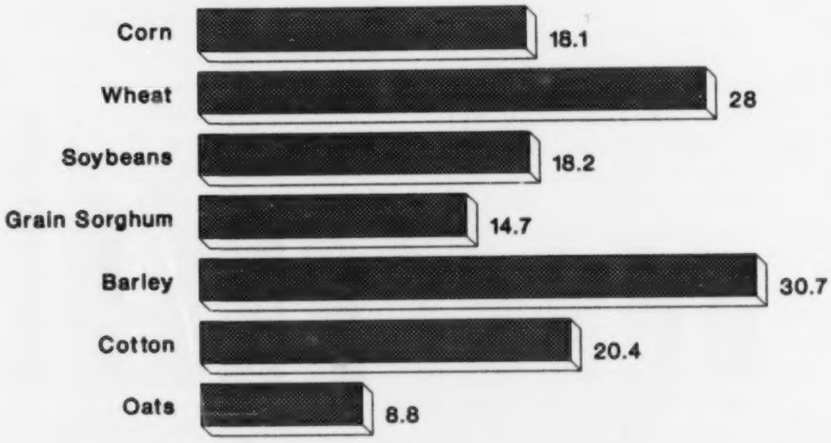
Net acres as percent of potential acres
Gross acres as percent of planted acres

Fig. 3: Major U.S. Commodities: 1986-88 Crops Average Potential & Insured Acres (acres in thousands)



Oats acreage is 1988 crop only

Fig. 4: Participation Rates for Major Commodities -- 1986-88 Average Net Insured Acres as Compared to Potential



Oats acreage is 1988 crop only

Figures 3 and 4 provide data regarding the participation rates for these commodities. There is relatively more risk of loss in producing wheat and barley. As a result, these commodities have higher average participation levels than the other six commodities. Wheat is the primary commodity produced on many farms and is the only major commodity produced in some areas. Such specialization increases the need for alternative risk management strategies. Grain sorghum is more drought resistant than corn, and the average participation is lower (14.7 percent versus 18.1 percent).

If the 50 percent participation level had been achieved for corn, wheat, and soybeans, without any improvement in the participation level for other commodities, the national average participation rate for the 1986 through 1988 crops would have been 45 percent, rather than 22 percent of potential acres.

Eight Commodities With the Most Insured Acres and Protection

The eight commodities with the highest number of acres, per commodity, insured are wheat, corn, soybeans, cotton, barley, grain sorghum, sunflowers, and peanuts. These 8 commodities comprise 93 percent of all acres insured under the Federal crop insurance program. The eight commodities with the highest values, per commodity, of Federal crop insurance coverage for the 1988 crops are wheat, soybeans, corn, tobacco, peanuts, cotton, sugar beets, and barley. Together, these commodities comprise 83 percent of the total value of protection in force for the Federal crop insurance program. Figure 5 illustrates the percent each of the eight commodities, with the highest number of acres per commodity, had of the total acreage insured for the 1988 crops. Figure 6 illustrates the percent each of the eight commodities, with the highest values of coverage per commodity, had of thetotal value of Federal crop insurance coverage for the 1988 crops. These data demonstrate the potential problems associated with examining only insured acres. While tobacco and peanuts account for less than 1.5 percent of all acres insured for the 1988 crop year, together, these commodities account for over 15 percent of the total value of coverage for the Federal crop insurance program.

Figure 7 presents the 1988 crop year participation data for the 10 commodities listed in figures 5 and 6. Figure 8 provides the rate of increase in participation for these 10 commodities. The most striking aspect of these data is the high rates of participation for peanuts, sunflowers, and tobacco. This can be explained in part by the relatively high value of the commodities. Yield guarantees for peanuts and tobacco have historically been based on the yields covered by USDA allotments or quotas. Thus, these commodities have not been subjected to the problems of adverse selection and the resulting higher rates that occurred for most other commodities where the yield guarantees were based on an average yield for an area.

Participation in Eight Problem States

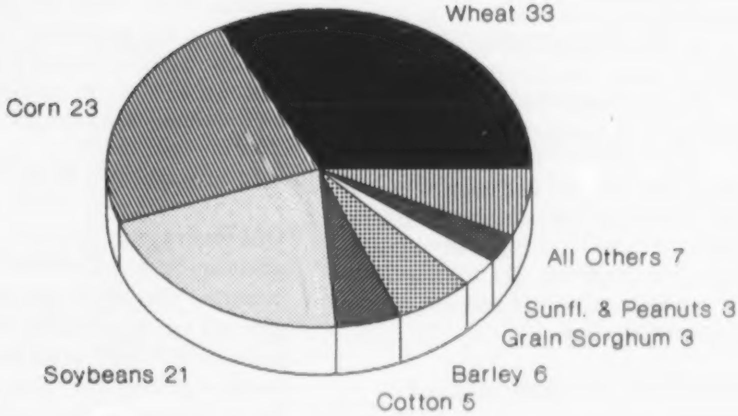
One way to identify States with low participation is to examine States that have a large amount of planted acreage. The 25 States with the largest number of planted acres, excluding acres of hay harvested, were examined. Eight of these States had participation levels significantly below the national average. The list of problem States includes Illinois, Indiana, Kentucky, Michigan, Ohio, Oklahoma, Tennessee, and Wisconsin. (See figure 9.) For crop year 1988, 66 million acres (excluding hay) were planted in these States, or 27 percent of the Nation's total acreage planted, excluding hay. Yet, only 5.7 million of these acres were insured, representing an average participation rate of only 9.1 percent for the 8 States. If these States had participation rates equal to the national average for the 1988 crop year (24.5 percent), the average national participation rate would have been 29 percent.

For the 1988 crops, Tennessee, Wisconsin, and Michigan had the lowest levels of participation. Agriculture in each of these States is very diverse with a relatively large livestock industry. Diversity can often provide a partial substitute for Federal crop insurance. However, it is likely that such low levels of participation are due to other problems with the Federal crop insurance program in these States.

Eight States with Highest Participation

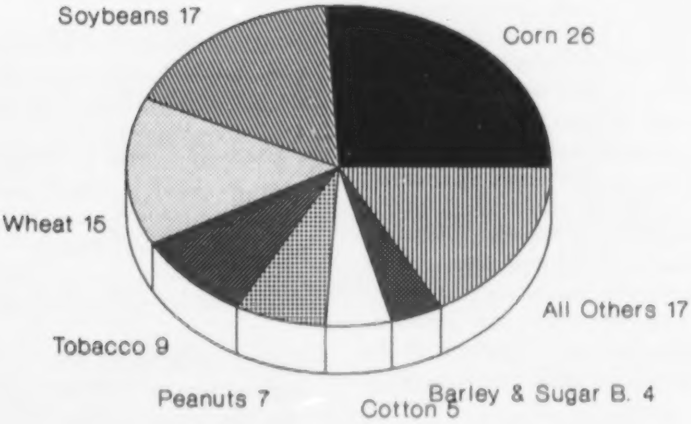
Figure 10 presents data on the eight States with the highest level of 1988 crop year participation in terms of the net acres insured when compared to all acres planted, excluding acres planted to hay. These States are Montana, Washington, North Dakota, Oregon, Iowa, Nebraska, Minnesota, and Louisiana. Of these States, the States with the four highest levels of par-

Fig. 5: Share of Insurance by Acre: Commodities with Highest Number of Acres in Crop Year 1988



(Percent of all acres insured)

Fig. 6: Insurance Share by Value: Commodities with Highest Value in Crop Year 1988



(Percent of total value insured)

Fig. 7: 1988 Participation Rates for Eight Crops With Highest Acreage & Value (Net acres as a percent of potential)

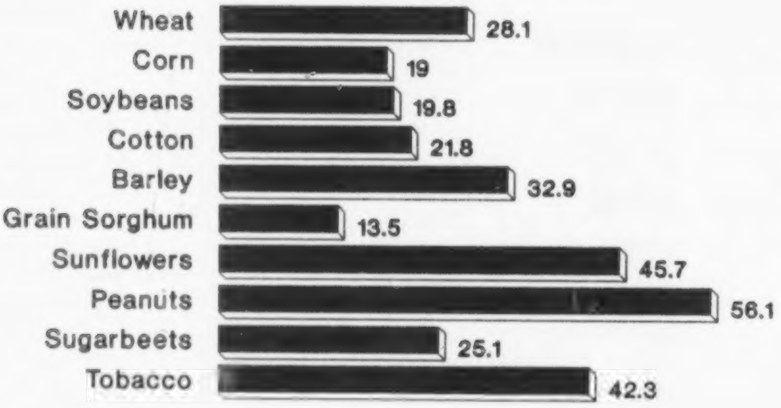


Fig. 8: Increases in Participation Since Federal Crop Insurance Act of 1980

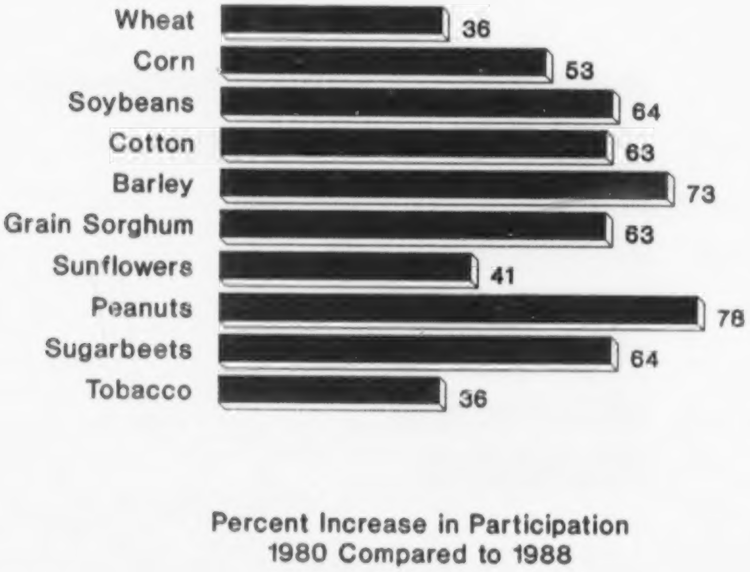
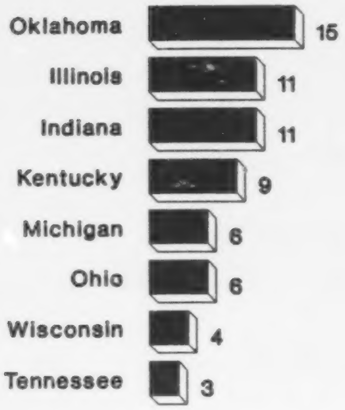
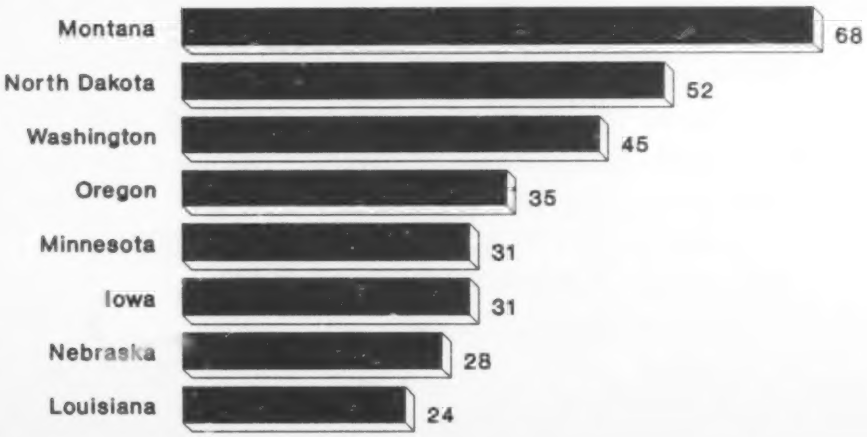


Fig. 9: States with Low Participation
(Net insured acres as a percent of
all planted acres except hay acres)



For 1988 Crop Year

Fig. 10: States with High Participation
(Net insured acres as a percent of
all planted acres except hay acres)

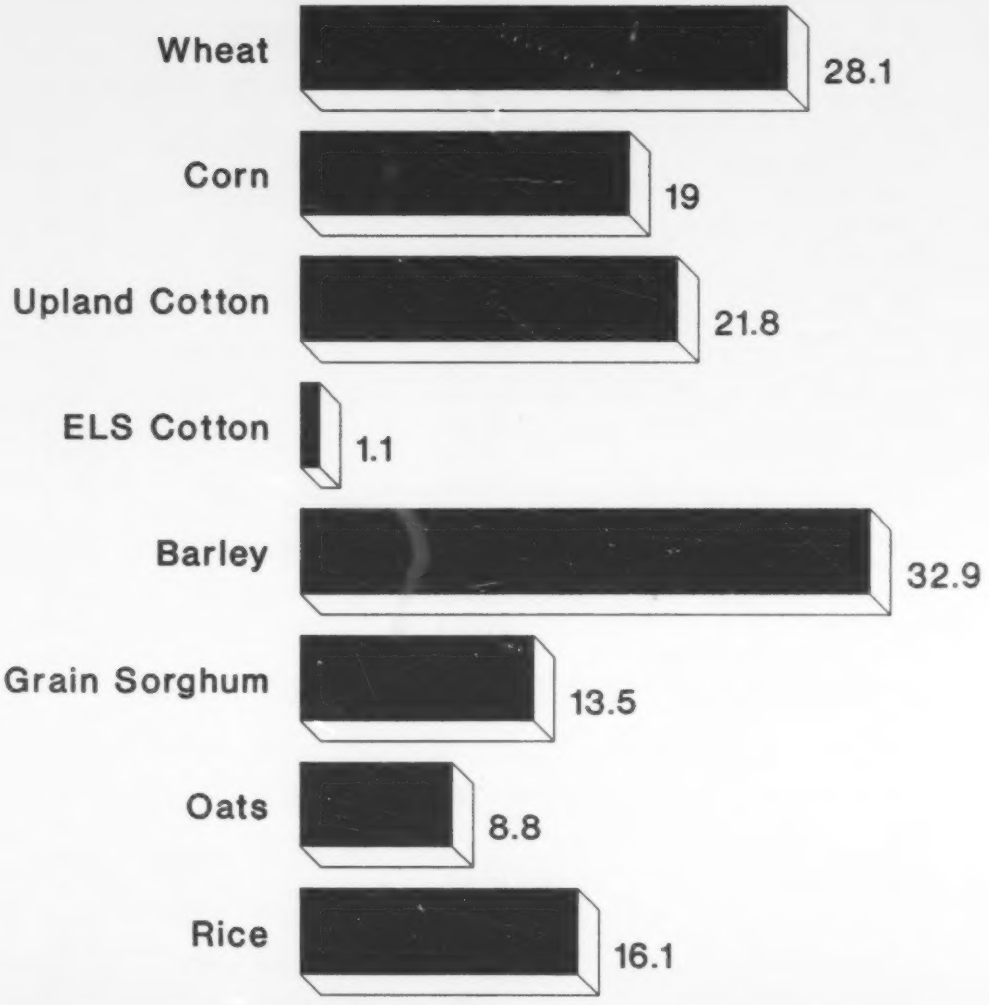


For 1988 Crops

Table 1. Commodities Ranked By Net Acres Insured in the 1988 Crop Year

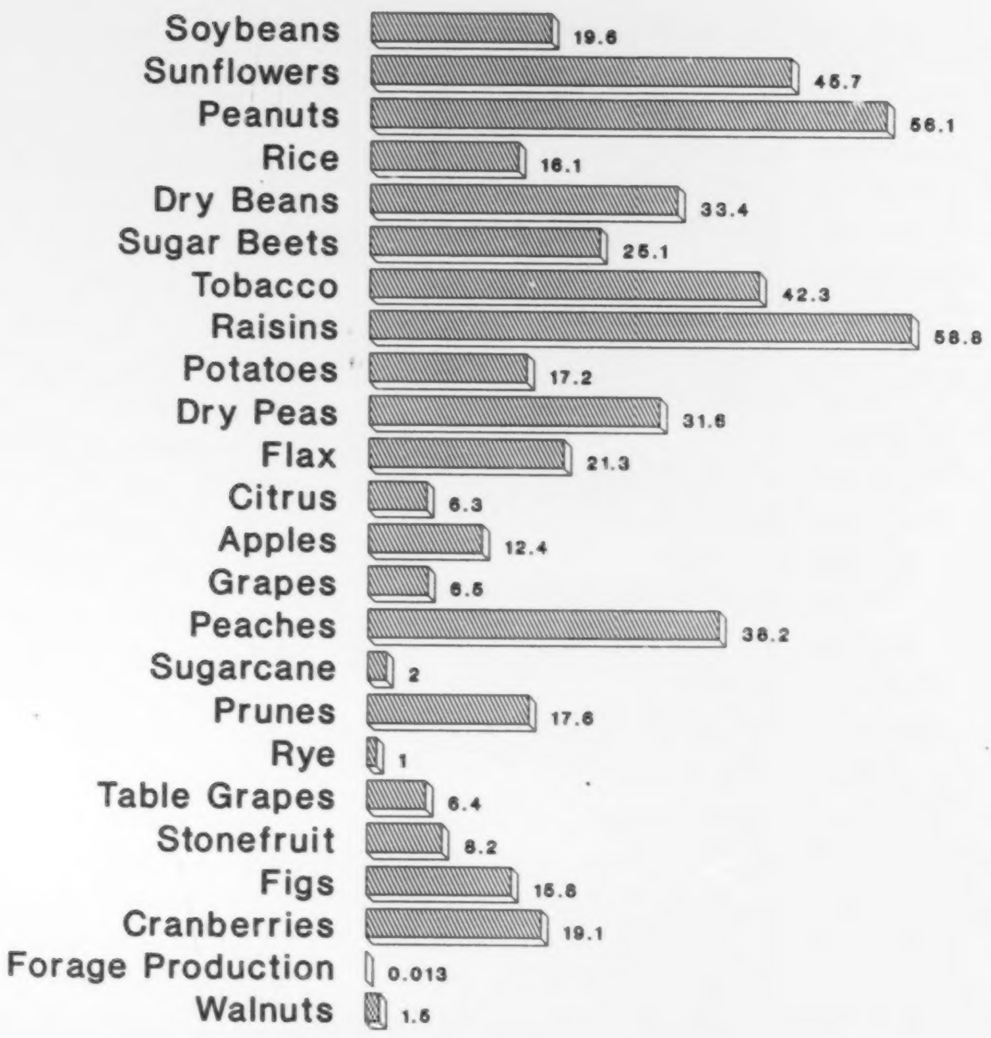
Commodity	*Net Insured Acres*	*Average Premium / Ac*
Wheat	18,439,042	$ 4.09
Corn	12,849,387	7.32
Soybeans	11,520,114	7.00
Cotton, Upland	2,679,655	16.79
Barley	3,184,097	3.94
Grain Sorghum	1,398,764	5.39
Sunflowers	886,091	4.40
Peanuts	907,802	25.23
Oats	555,630	3.12
Rice	470,807	6.07
Dry Beans	500,849	10.63
Hybrid Corn Seed	258,390	25.88
Sugar Beets	333,609	18.63
Tobacco	267,443	63.05
Raisins	220,541	47.80
Potatoes	196,708	33.71
Sweet Corn	109,165	11.01
Green Peas	96,366	12.14
Almonds	91,701	65.09
Dry Peas	57,260	8.08
Flax	58,477	4.11
Tomatoes	59,517	62.12
Citrus	52,774	55.93
Popcorn	42,290	10.78
Apples	46,181	125.72
Grapes	43,089	56.09
Peaches	35,880	43.65
Safflower	24,842	3.41
Fresh Market Sweet Corn	20,651	23.09
Citrus Trees	19,497	74.43
Fresh Market Tomatoes	18,273	248.16
Sugarcane	16,751	25.06
Prunes	13,169	58.68
Canning Beans	9,104	17.98
Rye	5,849	2.95
Onions	6,869	43.06
Table Grapes	5,341	109.56
Stonefruit	4,417	91.83
Figs	2,850	60.99
Cranberries	4,002	155.23
Hybrid Sorghum Seed	2,635	37.03
Forage Production	3,378	9.83
Peppers	3,135	218.93
Walnuts	2,747	34.80
Extra Long Staple Cotton	2,196	36.89
Forage Seeding	837	3.87
Macadamia Nuts	782	47.09
Macadamia Trees	782	209.95

Fig. 11: Participation for ASCS Program Commodities with Target Prices (Net insured acres compared to planted acres)



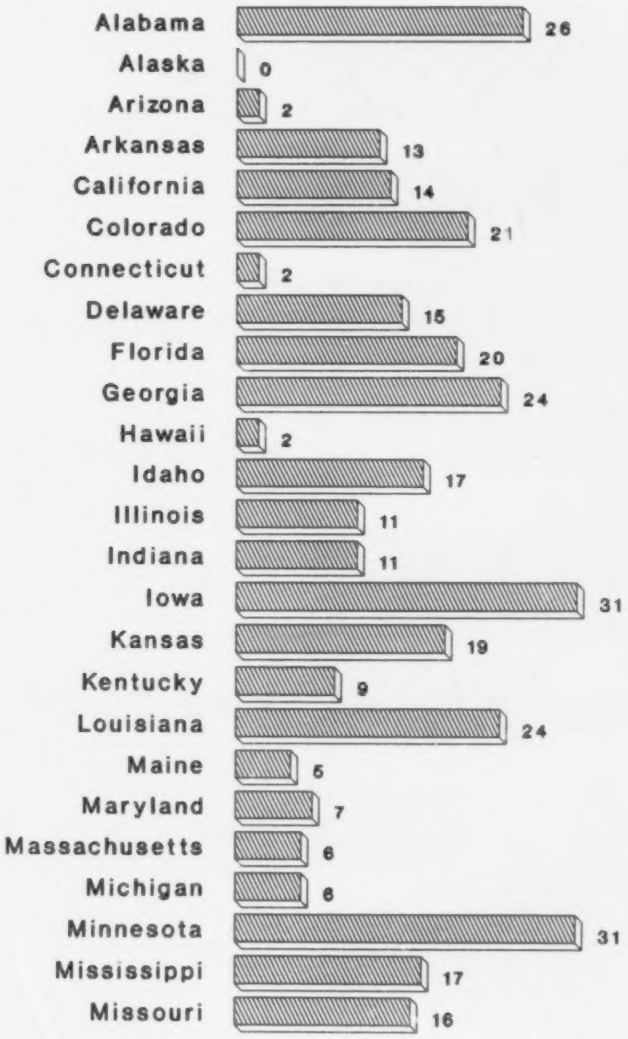
1988 Crop Year

Fig. 12: Participation Rates for Non-ASCS Commodities (Net insured acres as a percent of planted acres)



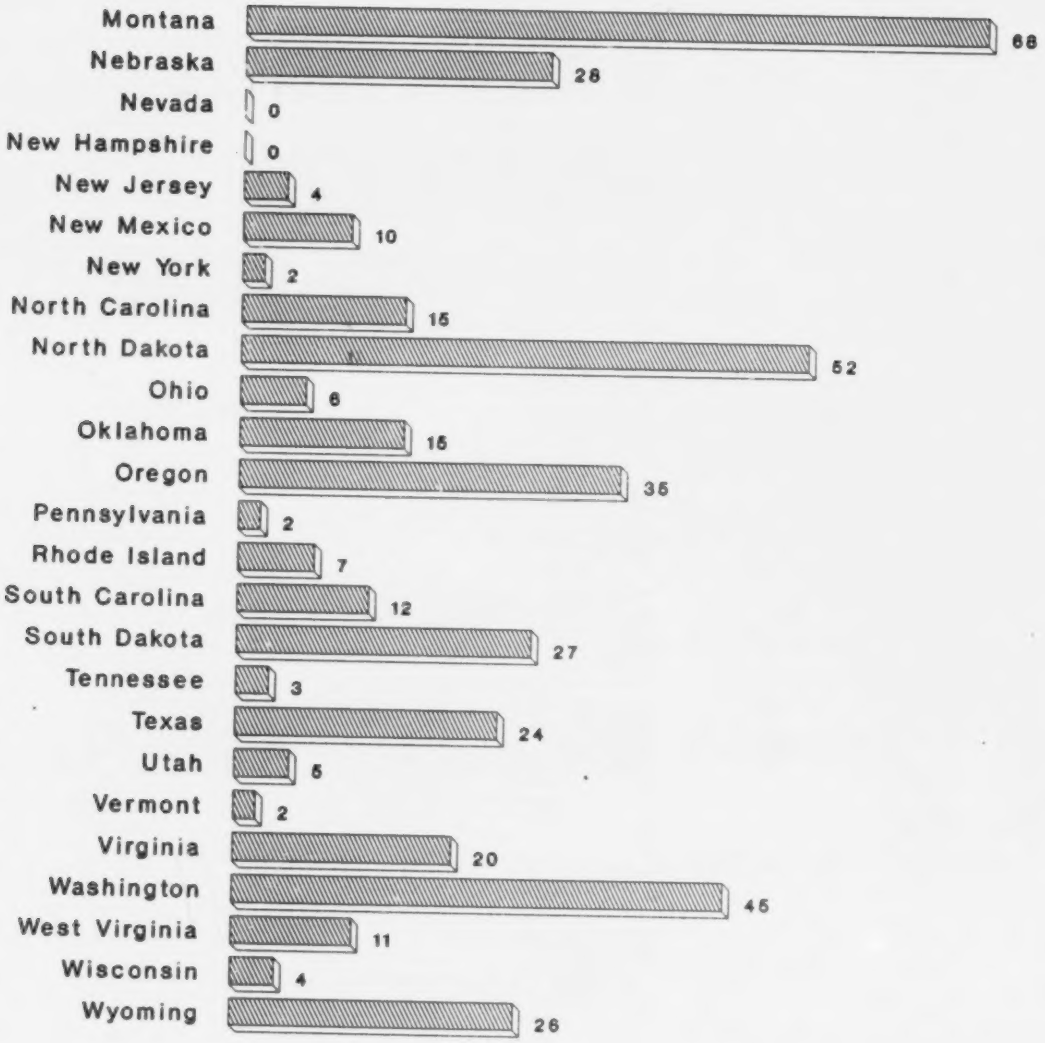
1988 Crop Year

Fig. 13: 1988 Crop Year Participation Rate by State (Net insured acres as a percent of planted acres)



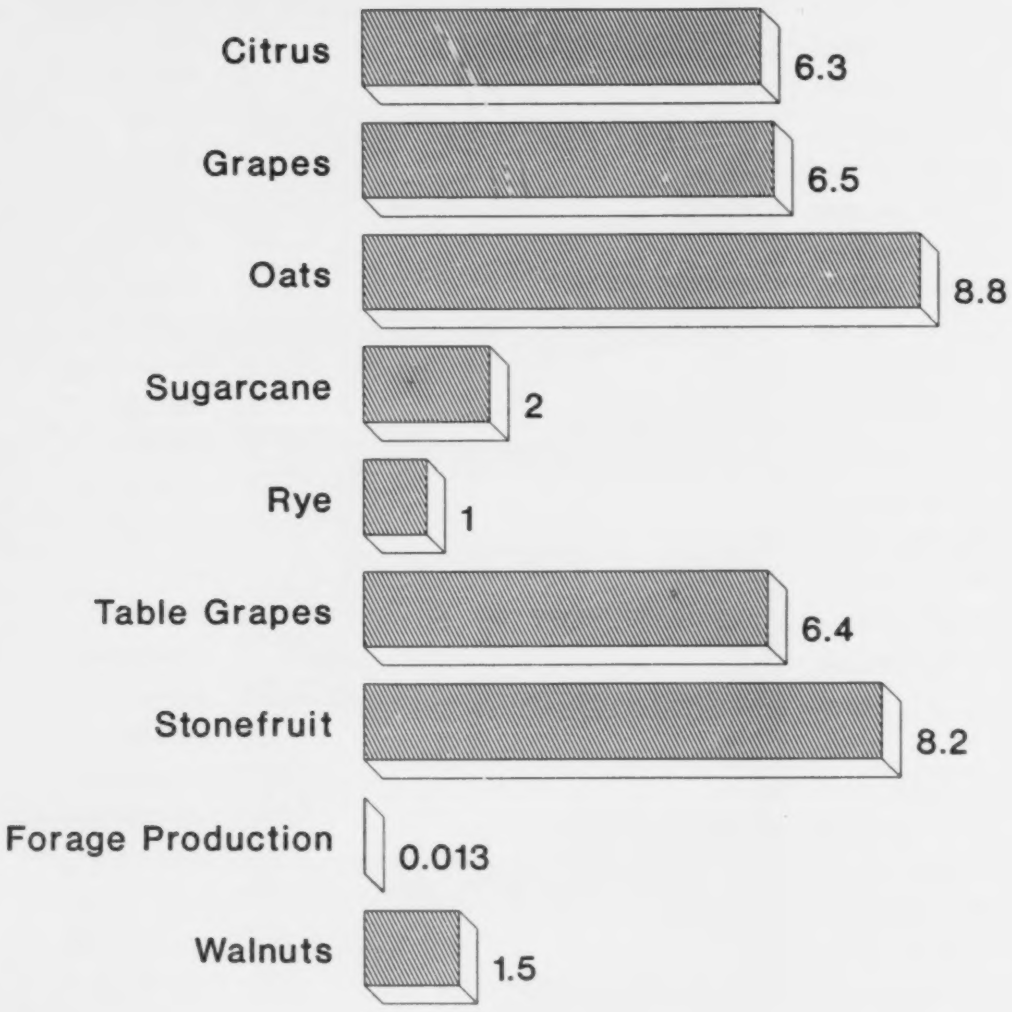
(Alabama through Missouri)

Fig. 14: 1988 Crop Year Participation Rate by State (Net insured acres as a percent of planted acres)



(Montana through Wyoming)

Fig. 15: Participation Rates for Commodities With Less Than 10 Percent of the Planted Acres Insured



1988 Crop Year

Table 2. Value of Federal Crop Insurance and Private Hail Insurance Coverage for 1988 Crop Year

State	*Federal Crop Insurance—Value of Coverage*	*Private Hail Insurance—Value of Coverage*
	—Dollars in Thousands—	
Alabama	$129,952	$14,146
Alaska	0	0
Arizona	8,273	291,970
Arkansas	94,694	207,770
California	362,641	30,822
Colorado	81,524	59,694
Connecticut	1,348	21
Delaware	13,145	581
Florida	115,647	18,565
Georgia	295,199	47,353
Hawaii	11,727	0
Idaho	92,071	269,792
Illinois	348,042	1,201,389
Indiana	171,803	396,634
Iowa	981,253	868,311
Kansas	225,459	378,866
Kentucky	79,374	25,169
Louisiana	104,148	2,867
Maine	4,643	10
Maryland	11,017	2,266
Massachusetts	5,306	27
Michigan	54,792	79,324
Minnesota	610,031	534,138
Mississippi	82,911	17,067
Missouri	137,367	124,789
Montana	227,532	50,035
Nebraska	490,550	452,176
Nevada	0	4,263
New Hampshire	0	0
New Jersey	2,683	367
New Mexico	6,258	19,709
New York	9,506	763
North Carolina	435,703	297,840
North Dakota	470,886	355,122
Ohio	76,541	80,265
Oklahoma	72,366	43,753
Oregon	42,674	96,557
Pennsylvania	101,583	2,166
Rhode Island	387	0
South Carolina	94,160	43,810
South Dakota	168,952	110,867
Tennessee	16,237	16,645
Texas	429,678	351,021
Utah	2,400	4,669
Vermont	1,006	599
Virginia	117,090	49,007
Washington	180,454	278,479
West Virginia	2,533	0
Wisconsin	45,352	192,423
Wyoming	17,988	11,149
TOTAL FOR U.S	6,943,445	7,033,256

Table 3: Value of Federal Crop Insurance and Private Hail Insurance Coverage For ASCS Program Commodities With Target Prices

ASCS Program Commodity	*Value of Coverage Under Federal Crop Insurance*	*Value of Coverage Under Private Hail Insurance*
	—Dollars in thousands—	
Wheat	$1,048,457	$1,116,651
Corn	1,811,579	2,268,694
Upland Cotton	372,033	557,491
ELS Cotton	1,168	98,389
Barley	145,595	235,108
Grain Sorghum	96,425	104,105
Oats	16,750	44,003
Rice	97,303	68,886

ticipation are States that produce primarily wheat. Wheat comprises well over half of the planted acreage in each of these States. As many of the farms in these States specialize in wheat production, this supports the notion that farmers who are unable to spread their risks via diversification into other commodities will be more likely to purchase Federal crop insurance.

Participation for All Commodities and States

Table 1 presents the ranking of the net acres insured for the 1988 crop year for all commodities. Congress also requested that the Commission present participation numbers for ASCS program versus non–ASCS program commodities. Figure 11 presents the participation levels for the 1988 crops of ASCS program commodities that use target prices. Figure 12 presents participation rates for the 1988 crops of most of the other commodities. All insurable commodities are not presented since data on planted acres for some specialty commodities were not available. Finally, figures 13 and 14 present participation levels for all States.

Commodities With Low Participation Rates

Of the commodities examined, the Commission is concerned with those having participation rates of less than 10 percent—citrus, grapes, oats, sugarcane, rye, table grapes, stonefruit, forage production, and walnuts. (See figure 15.) Of these commodities, Federal crop insurance for table grapes, walnuts, and stonefruit have been available for only a short time. Thus, these commodities are not as much of a problem as the remaining commodities that have had a program in place since at least 1981.

Of the commodities that have low participation rates, the Commission is particularly concerned with the low participation for oats. Planted acres for oats have increased significantly in the last several years. In fact, oats is now the fifth largest commodity in terms of acreage planted, following corn, wheat, hay, and soybeans. There is a particular need to increase participation for this commodity.

Comparing the Value of Coverage for Federal Crop Insurance With Private Hail

The Commission recognizes that private insurance companies also sell hail and fire insurance in significant amounts. As table 2 reveals, the total value of coverage provided by private hail insurance slightly exceeded that of Federal crop insurance in 1988 ($7.0 billion of coverage versus $6.9 billion). Since this type of insurance is also important, the Commission provides the breakdown by State for Federal crop insurance versus private hail insurance. Finally, the Commission provides the value of coverage for these two types of insurance by ASCS program commodities that use target prices. (See table 3.) For these commodities, private hail insurance exceeds the value of coverage carried under the Federal crop insurance program for every commodity except rice.

REASONS WHY MORE PRODUCERS DO NOT PARTICIPATE IN FEDERAL CROP INSURANCE

Section 5(a)(2)(A) of the Federal Crop Insurance Commission Act of 1988 requires the Commission to examine "the reasons why more producers of agricultural commodities do not participate in the program."

A number of factors influence a farmer's decision to purchase Federal crop insurance. The decision is made in the context of the farmer's entire farming operation, where the management of a variety of risks, including yield and price risks, is necessary. Over time, the farmer must also be concerned with financial risk and the risk associated with changing government policies. In managing risks, producers can either bear the risk themselves by self-insuring or transfer the risk to another person. Risk can be transferred through the use of futures markets, the purchase of private or federally-subsidized crop insurance, and by participating in the various agricultural programs, such as Agricultural Stabilization and Conservation Service (ASCS) commodity programs, or disaster assistance programs.

A producer is generally willing to use more resources, including borrowing more capital for production, if risk can be reduced. One of the major reasons for government involvement in agriculture is to ensure an abundant supply of food and fiber products at reasonable prices. To achieve that goal, the government must assist farmers in managing their risks. The Federal crop insurance program and the various other agricultural programs were designed to assist farmers in the management of risks.

Survey Results on Why Farmers Do Not Purchase Crop Insurance

The Economic Research Service (ERS) of the Department of Agriculture recently conducted a national survey of farmers regarding their participation in the Federal crop insurance program. Although the sample of farmers was limited to those growing corn, wheat, soybeans, cotton, rice, and grain sorghum, the results would probably be the same for all producers. For those farmers responding that they had not purchased Federal crop insurance, the survey asked that they first indicate the relative importance of a specific list of reasons regarding their decision not to purchase. They indicated whether the reason was: (1) very important; (2) somewhat important; or (3) not important. Figure 16 combines the percentage indicating that the reason was very important or somewhat important. After this sequence of questions, the farmers were asked to rank which of the nine reasons was the most important in their decision not to purchase Federal crop insurance. (See figure 17.) Following is the list of reasons that appeared on the survey, ranked in order of the percent of producers who cited it as the number one reason for not purchasing crop insurance:

(1) There is not enough coverage to insure against most of the risks I face (24.8 percent);

(2) The premiums for Multiple Peril Crop Insurance are too high (23.3 percent);

(3) You prefer to take the risk (23 percent);

(4) Your farming operation is diversified among many farming enterprises so you don't need crop insurance (9.9 percent);

(5) You have some other form of crop insurance (5.5 percent);

(6) You believe that the Government will provide assistance in the event of a major disaster (3.7 percent);

(7) You couldn't find out enough about risk alternatives to make an informed decision (3.4 percent);

(8) The paperwork is too complicated (3.3 percent); and

(9) You haven't been contacted by anyone who sells MPCI (3 percent).

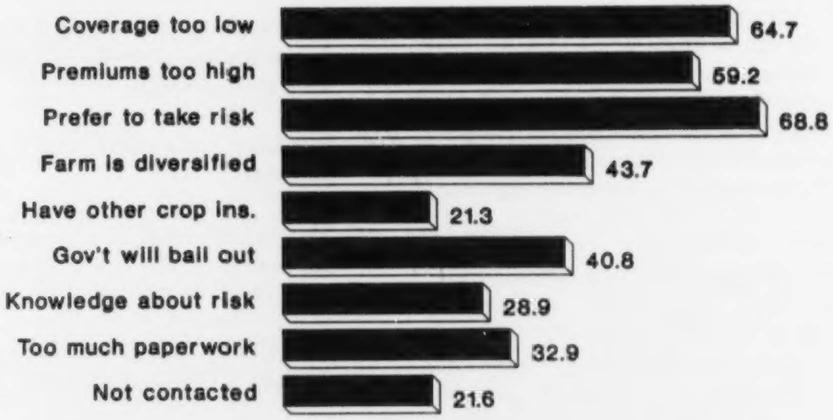
A general discussion of the reasons cited in the ERS survey as well as other reasons why farmers elect not to participate in the Federal crop insurance program follows.

Coverage

The most pervasive problem associated with farmers' perceptions of the Federal crop insurance program involves the coverage offered. Problems with coverage can be the result of a producer's low program yield or because, during years when losses are widespread, market prices will often be above the price election levels offered. If producers feel they are not being offered a fair yield guarantee, they will be less inclined to purchase Federal crop insurance. Participation is low, generally, when producers do not perceive that their yields used to determine insurance coverage adequately reflect their actual or potential yields.

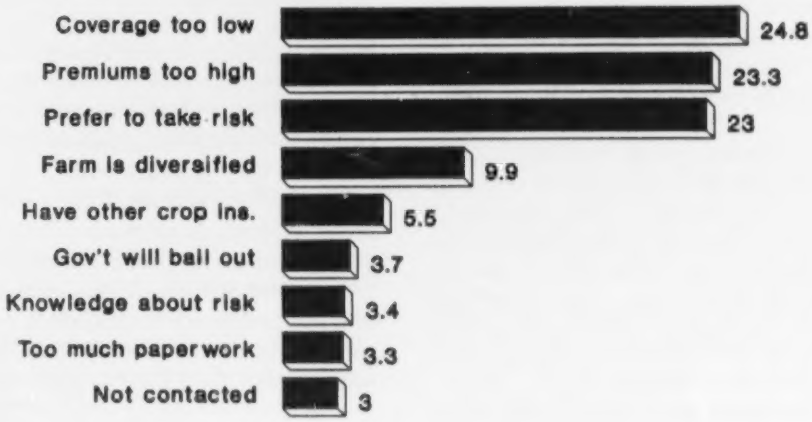
Additionally, when producers do not believe that the price election level offered is high enough, they will be less likely to purchase Federal crop insurance.

Fig. 16: Percent of Farmers Ranking the Reason They Did Not Buy Federal Crop Insurance



Preliminary From National Survey by ERS

Fig. 17: Percent of Farmers Ranking The #1 Reason They Do Not Buy Federal Crop Insurance



Preliminary From National Survey by ERS

Rate-Structure Problems

Despite the fact that premiums are subsidized, many producers believe that premium rates are too high for the coverage offered and too high for the risks they face. Though it is true that some producers tend to underestimate their risks, many of these producers are very likely correct. Premium rates are developed primarily on the basis of the historical experience of participants in the Federal crop insurance program. To the extent that these participants were producers with higher than average risks, the historical experience will cause rates to be relatively high. Two problems are pervasive: adverse selection and moral hazard.

Adverse selection occurs when the program encourages producers with high risks to participate and discourages producers with low risks. This can occur when farmers estimate potential yields more accurately than the underwriters who determine the yield potential for the farm. In these instances, the rates can be higher than the risks actually indicate, thereby encouraging only producers with high risks to participate. Moral hazard occurs when the behavior of the farmer changes after insurance is purchased in such a way as to increase the likelihood that an indemnity payment will be made.

In areas where the variation in managerial skill is large relative to the variation in commodity yields, adverse selection is likely to occur under an area plan where yields are based on an average for all producers in the area. Adverse selection can also be a problem in the early stages of an individual yield plan when the actual production history is being established for each producer. Under an actual production history plan, producers with higher than average yields will be more inclined to participate because the potential yield guarantees more accurately reflect their yields, but producers will be paying rates that are based on adverse selection and this may make the cost of the benefits less attractive. Thus, in areas where adverse selection is potentially significant, participation is likely to be less than in other areas.

Financial Risk and the Willingness of Producers to Self-Insure

Producers who have relatively low debt generally have access to credit in the event of a crop failure. Thus, producers with low levels of debt are less likely to purchase Federal crop insurance as they can more easily self-insure. Over 40 percent of the farmers who had gross farm sales of $40,000 or more in 1987 also had less than 10 percent debt (i.e., their debt load was less than 10 percent of their assets). Therefore, a large portion of the market would very likely never purchase Federal crop insurance.

In addition, producers who farm fields that are scattered over large areas may choose to self-insure because they recognize that a crop on one field with low yields will very likely be compensated by having reasonable yields from other fields. Again, such behavior may be reasonable in cases other than the catastrophic events where the entire region would be affected. In other words, such producers may need only catastrophic protection.

Finally, some farmers self-insure by maintaining cash savings or by establishing credit reserves. Since farmers expect to have wide variations in income from one year to the next, they have a greater propensity to save than does the general public. In addition, by not borrowing against their assets until absolutely necessary, farmers build credit reserves that allow them to self-insure.

Commodity Diversification

Participation should be higher for producers raising a single commodity or only two commodities than for producers raising multiple commodities, particularly if the relationship between the yields of the multiple commodities is low or nonexistent for growers of multiple commodities. With diversification, there is less need for risk transfer instruments, such as Federal crop insurance, because the likelihood of losing all crops in the same year is minimal. For example, one would expect to find much higher participation in Montana for growers raising a single crop of wheat a year than in Michigan for growers raising multiple crops each year, such as corn, sugar beets, dry beans, soybeans, and wheat. The correlation between the Michigan grower's corn and wheat yields is very low, between 0.0 and 0.2. Similarly, the correlation between corn and dry beans is small. Such a relationship means that there is a small probability that both crops would fail in the same year.

Farmers producing primarily corn and soybeans with a little wheat would be expected to have participation levels somewhere between the Montana and Michigan examples. The correlation between corn and soybeans is relatively high, in the 0.5 to 0.6 range in most cases. The correlations between corn and wheat and soybeans and wheat are lower. Once again, the participation data support these contentions as Montana has higher participation levels than Michigan, and Illinois has participation levels between those for Montana and Michigan.

Livestock Diversification

Producers with both ruminant livestock and commodities that can be harvested either as grain or, in an emergency, as silage will participate less than farmers who only produce grains to sell. The livestock enterprise serves as a buffer and as a diversification alternative. For example, during the drought of 1988, in some areas of Michigan, as much as 20 percent of the corn that would ordinarily have been harvested as grain was harvested as silage. A similar situation occurred in Wisconsin. Both Michigan and Wisconsin had very low levels of participation in the Federal crop insurance program. Following the 1988 drought, these States have had significant increases in participation.

Off-farm Income Diversification

Producers who have off-farm sources of income are less likely to purchase Federal crop insurance. Off-farm income, via an off-farm job by the operator or the spouse, is generally more stable than farm income and tends to even out the year-to-year variations in farm income. Thus, off-farm income is a risk management strategy used by an increasing number of U.S. producers. In areas where off-farm jobs are available, there are likely to be lower levels of participation in the Federal crop insurance program.

Risk Management Via Other Private Insurance

Producers may also use other types of insurance to offset risk. In addition to property, life, and health insurance, named peril insurance is available for most commodities. If a grower's predominant risk is hail or another single peril for which insurance is available, one would expect that individual to purchase insurance for protection against that peril only, rather than purchasing a multiple peril policy. When producers view hail as their primary risk, Federal crop insurance participation will often be lower. Commercial hail and fire crop insurance (HFCI) is available in many areas. The Federal Crop Insurance Corporation (FCIC) has estimated that 27 percent of the insurable acreage that could potentially be insured through Federal crop insurance was covered by hail and fire crop insurance in 1987. In many of the States in the central plains region, the total protection provided by HFCI has been twice that provided by Federal crop insurance throughout the 1980's. More simply, HFCI pays for spot loss by field and Federal crop insurance pays on a whole farm or unit basis. Since Federal crop insurance is subsidized and HFCI is not, this underscores the argument that producers prefer a product for which they collect small amounts more frequently.

Perceptions Regarding Government Disaster Assistance

If a producer believes the government will step in with disaster payments such as in Texas in 1982, and nationally in 1986 and 1988, there is not as much interest in participating in the Federal crop insurance program.

Agent Availability and Incentives in Certain Area Markets

Generally, the types of problems that delay the responsiveness or hamper the service provided to producers will create lasting impressions on producers. Bad impressions due to poor service are very difficult to overcome. Therefore, actions to improve product delivery can greatly improve participation in Federal crop insurance.

Participation is generally lower in areas where farms are relatively small and widely dispersed and where the value of the commodities produced are relatively low. Because agent commissions are based on a percentage of the insurance premiums, there is little incentive for agents to actively market insurance in these areas.

Complexity and Frequent Program Changes

Producers and insurance agents are often discouraged by the complexity of the Federal crop insurance program and the frequent program changes. Some producers do not participate because of the complex recordkeeping requirement used to determine the approved yield under the actual production history program. Frequent policy changes make it difficult for agents to use computer technology to effectively simplify the program. Keeping abreast of the changes and understanding the complexity of the program involve time and costs for both producers and agents. Agents who do not have adequate knowledge and training damage the program's image.

Variability of Crop Yields

Many producers do not purchase crop insurance because the climatic conditions in the area are favorable most of the time. In some areas of the country, some producers may suffer a substantial loss in production only once every 10 years. For these producers, purchasing crop insurance may not always be a wise investment.

Additionally, some commodities are more drought resistant than others, and thus yields are generally high with little variation from year to year. Producers of these commodities may not purchase crop insurance because they can expect, in most years, yields high enough to cover their operating costs.

On the other hand, when the yields of a commodity vary significantly from year to year, producers may purchase crop insurance because the likelihood of losing an entire crop is greater.

Price Risks and Commodities with High Values

The greater the price risk of the commodity, assuming the commodity yield risk is constant, the greater the participation in the Federal crop insurance program will be. There is a greater need to transfer yield risk when the risks in other areas of the farm business are greater. Differences in participation among commodities can also be ascribed to the market value or production cost associated with the commodity. The higher the production cost per acre or the higher the market value of the commodity, the more likely participation will be higher. Peanuts, tobacco, and grapes are commodities that have relatively high values, and participation in the program is also relatively high. Likewise, commodities with relatively low values generally have lower participation rates.

Condition of the Farm Economy

When farmers are stressed for cash due to declining farm prices, crop insurance represents an additional drain on cash flows. Under such conditions, farmers may be unwilling or unable to use limited funds to purchase Federal crop insurance.

Competition From Other Government Programs

Since ASCS commodity programs reduce price risk, they provide a substitute for Federal crop insurance. It is likely that participation in the Federal crop insurance program would be higher for ASCS program commodities if these programs did not provide risk protection. In addition, under the current design, some commodity programs pay producers deficiency payments based on ASCS program yields. This means that, to the extent that deficiency payments are made, producers will receive them regardless of their actual production. This is a form of crop insurance.

Distrust of Federal Programs

Some farmers simply distrust any program of the Federal Government. These farmers will likely never purchase Federal crop insurance. There are a variety of reasons for such distrust. For example, a bad experience with a government program, such as previous experience with Federal crop insurance, may be the basis for distrust.

Producer Optimism

Producers' perceptions of risks and their knowledge of Federal crop insurance will influence decisions to purchase Federal crop insurance. The list of factors under this category can be most appropriately addressed through educational and marketing efforts. Yet, even with such efforts, some producers will remain unconvinced and choose not to purchase. In the April report, the Commission recommended that the FCIC develop a comprehensive education and training program to address these issues.

Producers tend to forget bad years, and, as with most decisionmakers, they tend to ignore potentially disastrous events. In other words, individuals tend not to think about events that have a low probability of occurring, even though these events may have potentially disastrous economic consequences. Participation in the Federal flood insurance program has demonstrated this problem. Insured producers tend to purchase too much insurance for relatively common events and too little insurance for low probability events that are beyond their financial capacity. Quite simply, people prefer to insure for small probable events rather than large improbable events.

Farmers in Michigan's Saginaw Valley were unprepared for the flood of 1986. Predictions that the flood that occurred in 1986 could occur ranged from 1 chance in 50 to 1 chance in 100. Prior to the flood, producers did not believe it was possible for yields to be as low as they were in the more severely flooded areas.

In interviews with 100 Kentucky grain producers, researchers found that producers tend to forget years when yields were low. The yields that over 60 percent of the corn and soybean producers indicated would be the very lowest yield they could expect in 1987 were higher than their farm records indicated their yields had been for the 1983 crop. Less than 10 percent of the corn and soybean producers indicated that yields could be lower than their 1983 crop yields. When producers underestimate the potential risk in this manner, they underestimate the value of Federal crop insurance and are, as a result, less likely to purchase insurance.

Perceptions That Federal Crop Insurance Is for Poor Producers

In many areas during the early 1980's, some producers believed that Federal crop insurance was purchased only by producers who wanted to collect Federal crop insurance indemnity payments. At that time, insurance coverage for all commodities was based on an area average yield. Producers could thus have a total loss every year without having their coverage reduced. Even though the FCIC now relies more on individual yields to establish coverage, some producers still have this perception of the program. Even today, in areas where program participation is relatively high, some farmers may be more willing to admit using the latest technology than to admit using Federal crop insurance as a risk management tool.

Perceptions Regarding Units

The number of separate units available to producers may influence the frequency of collection as more units may result in more frequent indemnity payments. An insurance unit is all or that portion of the insured's farming operation that is taken into consideration when determining a loss. However, when widespread disaster occurs and losses are experienced on all farms, units are not a factor.

ADEQUACY OF COVERAGE AND YIELDS

Section 5(a)(2)(B) of the Federal Crop Insurance Commission Act of 1988 requires the Commission to examine "the adequacy of the insurance coverage provided by the program." Section 5(a)(2)(C) of that Act requires the Commission to examine "the adequacy of the development and use by the Federal Crop Insurance Corporation of yield data in the program, including the yields used to establish insurance coverage."

The Commission does not believe that the coverage currently provided by the program and the yields used by the Federal Crop Insurance Corporation (FCIC) to establish such coverage are adequate. Witnesses at the Commission's public hearings repeatedly expressed their dissatisfaction with the level of coverage provided and with the low yields used by the FCIC. Witnesses stated that using 10-year yields resulted in yield guarantees far below the actual yields producers could normally expect.

The adequacy of the insurance coverage provided by the program is largely a function of the price election level and the yield. In the April report, the Commission addressed the price election level in its recommendation to expand to other crops the futures market-based price election currently available for soybeans. In this report, the Commission reaffirms its interest in this expansion by including this proposal in a recommendation to enact legislation to authorize the FCIC to determine a maximum price election level based on one of four methods. The other methods include a price election level based on the projected market price at harvest time, a price election level based on the contract price of a commodity, where applicable, and a price election level based on the variable cost of production of the commodity. In addition, the Commission is recommending that legislation be enacted to require the FCIC to establish the maximum price election level at a price not less than the projected market price at harvest time. Under current law, the FCIC is only required to have one price election level, which must be not less than 90 percent of the projected market price.

In the April report, the Commission recommended that two alternative yield plans be offered for the 1990 crop year: general coverage based on Agricultural Stabilization and Conservation Service (ASCS) yields and modified actual production history (APH) coverage based on the previous 5 years of data, but not less than the ASCS yield. In this report, the Commission reaffirms its support for these plans in recommending that several voluntary yield plans be offered: coverage based on a modified APH program yield for all commodities; coverage based on the producer's ASCS yield for ASCS program commodities and related commodities; and coverage based on a county average yield for other commodities. For producers of ASCS program commodities, the APH yield could not be lower than the ASCS yield. This will provide producers who want to increase their yield guarantees under the APH plan with a minimum yield. The ASCS yield plan will provide other producers of ASCS program commodities and producers of related commodities with a minimum yield in the event the APH yield plan results in very low yields. The county average plan provides producers of other commodities the same protection. Generally, producers with higher than average yields can use the APH plan to increase their yield guarantee.

In addition, to further improve producer satisfaction with the FCIC's yield programs, the Commission is recommending that the ASCS be required to establish soybean yields for crop insurance purposes, and that the ASCS be required to revise, for crop insurance purposes, ASCS established yields to accurately reflect actual production and to establish farm yields by practice.

Finally, the Commission is recommending that yield guarantees for sugar beets and sugarcane be established on the basis of the sugar content of the commodity after its initial processing.

THE EFFECTS OF PREMIUMS CHARGED ON PARTICIPATION

Section 5(a)(2)(D) of the Federal Crop Insurance Commission Act of 1988 requires the Commission to examine "the effects of the crop insurance premiums charged such producers on the level of participation in, and the cost of, the program, and the actuarial soundness of such premiums."

Farmers paid, through premiums, approximately 42 percent of the total costs, including administrative and operating costs, associated with the Federal crop insurance program for the 1981–1988 crop year programs. When compared only to the amount of total indemnities paid during the same period, farmers paid, through premiums, approximately 51 percent of total indemnities. In other words, for every dollar of premiums farmers paid, farmers received $2.04 in indemnity payments. Thus, the average benefit-cost ratio for farmers is 2.04.

When the premium subsidy is added to the premiums paid by farmers for the 1981–1988 crop years, farmers received $1.56 in indemnities for every dollar of premiums paid. Thus, the average loss ratio of the Federal crop insurance program for this period was 1.56. A loss ratio is the dollar amount of indemnities paid divided by the amount of premiums earned.

Prior to 1980, the loss experience for Federal crop insurance was much closer to being actuarially sound as the average loss ratio was 1.10 for the 1948–1980 crop years. The loss ratio for the 1939–1947 crops was 1.48. Actuarially sound means that a proposed course of action over a period of time will result in total premiums earned being equal to total indemnities. One reason the loss ratio in the 1980's has not been favorable is because of the tremendous expansion of the Federal crop insurance program to other commodities and areas. In addition, there were two years of atypical weather conditions. Figures 18 and 19 and table 4 present the loss ratios for the program. If the two atypical weather years of 1983 and 1988 are not included in the average, the average loss ratio is 1.35. Since part of the losses experienced during the 1980's are likely due to the expanded programs, the current rate structure may not be as much out of balance as an initial assessment would lead one to believe. In fact, the average loss ratio for the 1980's is comparable to the average loss ratio of 1.48 for crop years 1939–1947, the first 8 years of the program.

A basic principle of insurance is that pooling across regions and different commodities should improve the actuarial performance by reducing the variation in the overall losses. In addition, as participation increases there should be improvements in the actuarial performance. There is some evidence that such improvements are occurring. The loss ratio in 1988 (2.42) was not much higher than the loss ratio of 1980 (2.27). The 1988 drought was significantly more widespread than the 1980 drought.

Because the program has not been actuarially sound, it would seem logical that rates should be increased. However, the current loss ratio is the average for only those who have purchased Federal crop insurance. Some farmers have made more than $2 for every $1 invested in Federal crop insurance and some have made less. Some of the farmers who currently purchase Federal crop insurance present a greater risk than the farmers who are not buying. In addition, when the area yield plan was being used, some farmers

Fig. 18: Loss Experience Compared to Total Premium for Federal Crop Insurance

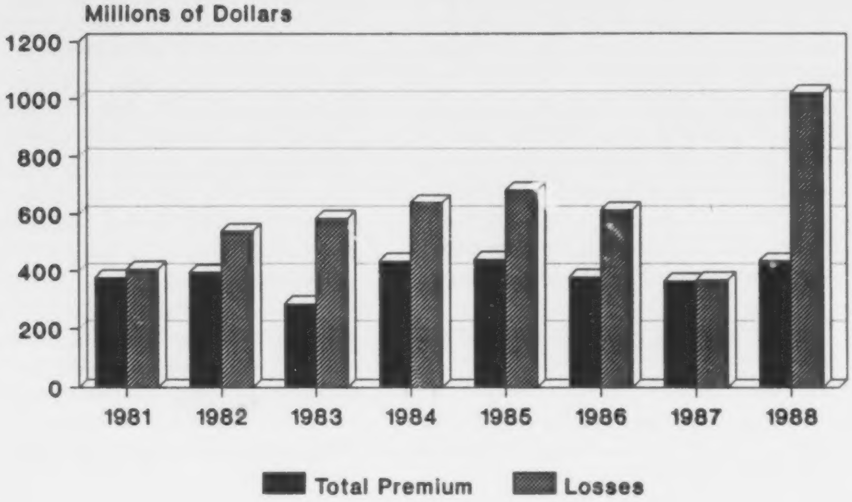


Fig. 19: Loss Ratios for Federal Crop Insurance

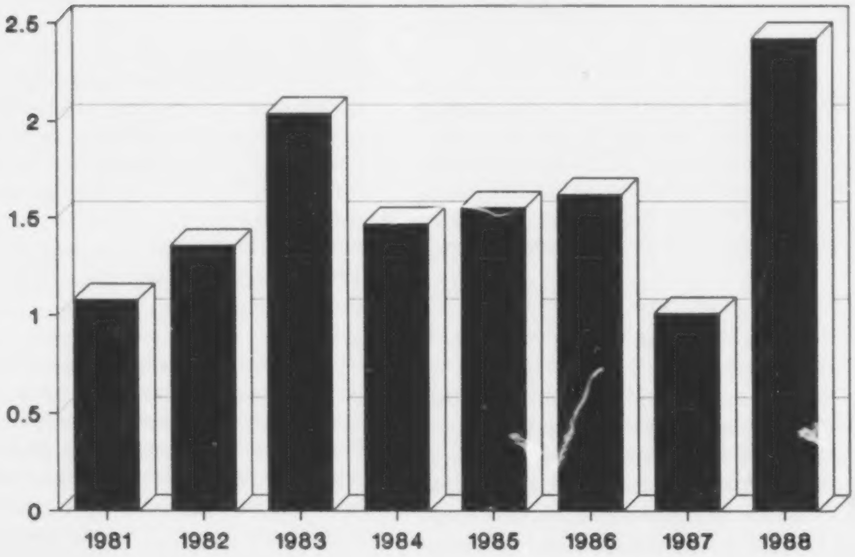


Table 4: Loss Ratios for the Federal Crop Insurance Program by Year (FCIC Data*)

	1981	1982	1983	1984	1985	1986	1987	1988	1981-88	1948-80
Wheat	0.97	0.88	0.88	1.60	2.47	1.70	1.03	3.93	1.71	1.05
Cotton	1.11	1.88	1.71	1.64	0.55	2.80	0.48	0.88	1.32	1.57
Combined Crop	0.17	0.32	0.62	0.10	0.60	1.16	1.12		0.41	1.18
Tobacco	0.89	0.99	2.95	0.50	0.59	1.73	1.52	0.90	1.24	1.04
Corn	0.58	0.52	2.72	0.89	0.62	0.83	0.59	3.19	1.15	1.08
Flax	0.89	1.22	0.88	0.81	1.15	1.32	0.92	4.55	1.24	0.89
Bean	1.01	2.99	1.34	1.17	2.13	1.31	1.85	1.92	1.79	0.92
Citrus	2.23	0.08	0.00	2.71	3.39	0.56	0.14	0.33	1.39	1.40
Soybean	1.80	2.01	2.47	1.89	1.73	2.04	1.32	1.93	1.90	0.89
Barley	0.82	0.63	0.85	2.12	4.38	1.88	1.24	4.79	2.41	0.95
Peaches	0.35	3.58	3.01	0.90	2.70	2.41	2.18	2.34	2.27	1.25
Grain Sorghum	0.93	1.15	1.99	2.50	1.68	1.88	1.08	1.37	1.62	1.05
Oats	1.42	0.59	0.76	1.24	1.48	1.73	1.34	5.63	1.81	0.84
Rice	1.86	3.35	4.07	1.54	2.69	2.79	2.69	2.63	2.71	1.47
Raisins	0.00	6.28	1.16	0.48	0.15	0.06	0.00	0.00	0.80	1.01
Peas	0.68	0.69	0.94	0.91	0.93	0.74	0.56	0.40	0.75	1.27
Peanuts	0.62	0.80	3.03	0.83	0.97	2.81	2.27	1.51	1.64	1.35
Potatoes	1.36	1.29	2.74	2.73	2.68	3.06	2.43	2.86	2.76	2.06
Apples	1.54	1.64	1.50	1.63	2.73	2.53	0.88	2.21	1.94	1.27
Cherries										2.61
Tomatoes	0.40	2.56	1.39	1.05	0.64	0.52	0.31	0.68	0.78	0.75
Safflower							1.00	4.01	2.50	1.15
Sugar Beets	0.75	0.41	0.77	0.79	1.03	1.06	0.60	1.98	1.11	0.77
Tung Nut										0.74
Grapes	0.85	2.28	2.57	0.95	0.79	0.73	0.39	0.18	1.34	0.99
Sugar Cane	1.22	0.80	4.93	2.24	0.85	0.19	0.20	0.06	1.73	0.86
P. Rico Reins.			0.37	2.70	0.00	0.08	0.00	0.00	1.17	0.00
Sunflowers	0.72	1.42	1.08	1.55	3.80	1.57	0.55	2.22	1.62	1.03
Forage Seed	4.38	2.70	0.99	1.67	1.48	1.65	0.89	1.57	2.40	4.88
Sweet Corn	1.12	0.51	1.39	0.45	0.86	0.51	0.50	1.75	0.77	0.59
Forage Prod.	3.15	2.12	2.86	1.30	2.97	0.00	0.00	2.66	2.53	2.00
Rye	0.00	0.47	0.40	0.37	0.97	0.68	0.75	3.64	0.88	1.00
Almonds	0.02	0.75	3.43	0.01	1.04	5.68	0.14	0.95	1.34	
Prev. Planting		5.62	1.31	0.40	1.97	8.85	0.00	0.00	5.67	
Hybrid Seed			13.21	3.04	0.68	0.71	0.95	5.14	2.10	
Citrus Tree			0.00	22.50	0.77	0.09	0.00	0.00	3.36	
Table Grapes				3.08	1.47	0.87	0.36	0.61	1.60	
Peppers				1.38	3.72	1.49	0.21	0.61	1.23	
Popcorn				3.26	2.08	1.97	0.59	2.68	2.14	
Fresh Tomatoes				6.12	5.90	1.30	0.57	0.23	1.52	
Walnuts				0.78	0.06	2.98	0.15	0.25	0.84	
Cranberries				0.53	0.19	1.37	0.76	0.88	0.81	
Nursery Stock				0.00	0.00	0.00	0.04	0.00	0.01	
Cotton, ELS				0.00	0.00	0.00	1.33	0.56	0.49	
Sw Corn, Fresh					2.72	1.60	1.36	1.75	1.64	
Peaches, Canning						0.93	0.09	0.00	0.69	
Prunes						6.98	0.17	2.01	2.52	
Prev. Plant. End.						17.68	0.00	0.00	16.36	
Bean, Cann/Proc								2.39	2.39	
Figs								1.00	1.00	
Macadamia Nuts								0.00	0.00	
Macadamia Tree								0.00	0.00	
Onions								2.38	2.38	
Stonefruit								1.30	1.30	
ALL PROGRAMS	1.08	1.34	2.02	1.47	1.55	1.62	1.01	2.42	1.56	1.10

*Best available data as of July 1989.

had yield guarantees higher than their actual yield history or potential yields could justify. This can result in serious loss problems.

It has been suggested that rates should be raised to reduce the problem of excess losses. However, raising premium rates can often lead to reduced participation, and the risk pool can become concentrated with farmers who operate higher-risk farms. Two factors are important to understanding how a rate increase will affect the market: (1) the price responsiveness in the Federal crop insurance market, and (2) the change in the risk pool when rates are changed. It can be argued that, over the long-run, a reduction in premium rates might be offset by greater participation.

The Federal Crop Insurance Act of 1980 greatly expanded the availability of Federal crop insurance and introduced a 30 percent premium subsidy for coverage levels up to 65 percent of approved yields. The response to the changes made in 1980 was striking. From crop year 1980 to 1981, participation rates, as measured by the number of net acres insured, increased over 60 percent, going from 9.6 percent of potential acres insured to over 15 percent of potential acres. Although there were a number of factors responsible for this increase in participation, the premium reduction due to the subsidy was a significant factor. Because the dollar value of the premium subsidy is applied to premiums for coverage levels above 65 percent, the effective subsidy is approximately 25 percent. Since the price of Federal crop insurance declined approximately 25 percent, it can be assumed, at least, that for every 1 percent reduction in premiums, a 1 percent increase in participation can be expected. Conversely, it can be assumed that for every 1 percent increase in premiums, participation will decrease by 1 percent. Studies conducted at the University of Maryland and the University of Missouri lend support to this estimate of farmers' response to increases or decreases in premiums.

Finally, farmers should be more responsive to price changes when they can obtain insurance that more closely reflects their actual farm yields. However, what is significant for the program is the type of farmer who is attracted if the price is reduced. Since part of the pool of farmers who now purchase insurance is composed of farmers who represent the highest risks, lowering the price would very likely attract relatively more farmers with lower risks, thereby improving the actuarial performance of the Federal crop insurance program.

NATURE AND EXTENT OF ALL GOVERNMENT SUBSIDIES

Section 5(a)(2)(E) of the Federal Crop Insurance Commission Act of 1988 requires the Commission to examine "the nature and extent of all government subsidies associated with the program." The Commission examined data from 1981 through 1988 in order to meet this requirement.

There are basically two types of subsides: (1) direct premium subsidies; and (2) excess loss subsidies. In addition to these two subsidies, administrative costs, though not normally considered a subsidy for government programs, must be included in this discussion in order to examine all costs associated with the Federal crop insurance program. Thus, each of the three costs associated with the program is discussed below.

The premium subsidy was implemented as a result of the Federal Crop Insurance Act of 1980. The premiums paid by farmers are subsidized at 30 percent for coverage up to 65 percent of approved yields. The dollar amount of the subsidy for coverage up to 65 percent remains in place for farmers selecting coverage up to 75 percent of yields, and the effective subsidy for this level is slightly less than 20 percent. Subsidies for premiums have averaged approximately $85 million for the 1981 through 1988 crops. For this analysis, premium subsidies are presented by crop year.

Excess loss subsidies equal the difference between total premiums and total indemnities for the crop year. Since the 1980 Act, the Federal Crop Insurance Corporation (FCIC) has consistently paid more in indemnities than they have received in premiums. Primarily, two factors explain these excess losses: (1) development of new programs for new commodities and new counties, and (2) the atypical weather in the 1980's. These excess losses depleted the FCIC's capital stock of $700 million by 1985. In recent years, the law has allowed the FCIC to obtain funds from the Commodity Credit Corporation to pay excess losses. The excess losses for the FCIC averaged $216 million per crop year between 1981 and 1988.

Finally, as is the case for most government programs, none of the administrative costs associated with the Federal crop insurance program are passed on to farmers. Administrative costs for 1981–1988 consist of the FCIC's costs, payments to reinsured companies, and payments to agents in 1981 and to master market-

Table 5: Nature and Extent of All Government Costs

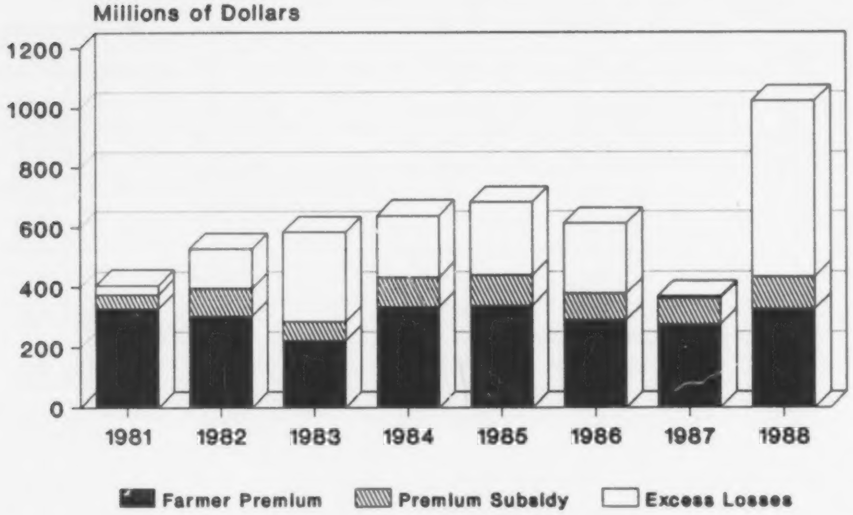
			Administrative & Operating Costs			
Yr	Premium Subsidy	Excess Losses	FCIC Costs	MMA Costs	Reinsurance Costs	Total Costs
1981	$46,995	$30,471	$60,630	$27,658	$3,663	$169,417
1982	91,990	132,250	69,190	46,978	23,138	363,546
1983	63,669	297,971	69,745	25,958	35,603	492,946
1984	98,296	204,314	73,632	25,235	78,887	480,364
1985	100,224	242,438	79,009	17,711	102,888	542,270
1986	88,043	233,806	85,027	10,765	97,711	515,352
1987	87,536	4,669	60,046	12,700	97,148	262,099
1988	107,830	585,678	65,077	11,700	121,545	891,830
Total	684,583	1,731,597	562,356	178,705	560,583	3,717,502
Avg.	85,573	216,450	70,294	22,338	70,072	464,728

All dollar amounts are presented in thousands.Data were developed from FCIC data.Premium subsidies and excess losses are based on crop year data.Administrative and operating costs are based on fiscal year data.The 1981 cost under the MMA heading are direct agent costs as Master Marketers began serving in 1982.

Table 6: Average Cost Per Net Acre Enrolled, 1981—1988

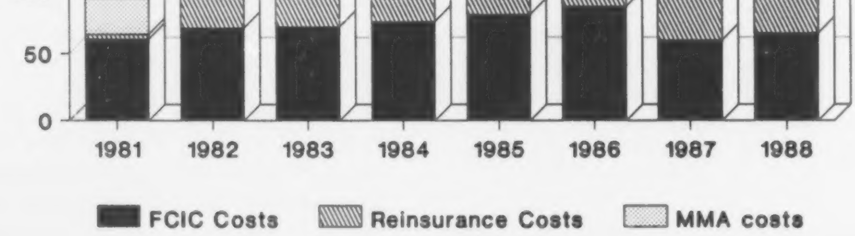
Year	Total costs	Total less excess loss	Total less administrative	Premium per acre
1981—	$3.77	$3.09	$2.21	$1.04
1982—	$8.51	$5.41	$6.00	$2.15
1983—	$17.65	$6.98	$13.10	$2.28
1984—	$11.26	$6.47	$7.26	$2.30
1985—	$11.17	$6.18	$7.01	$2.07
1986—	$10.60	$5.79	$6.46	$1.81
1987—	$5.34	$5.24	$2.02	$1.78
1988—	$16.05	$5.51	$11.99	$1.94

Fig. 20: Premium Subsidies and Excess Losses -- Federal Crop Insurance Program



Values Based on Crop Year

Fig. 21: Administrative Costs Associated With Federal Crop Insurance Program



All Values are in Fiscal Year
1981 Provides Agent Costs-not MMA Costs

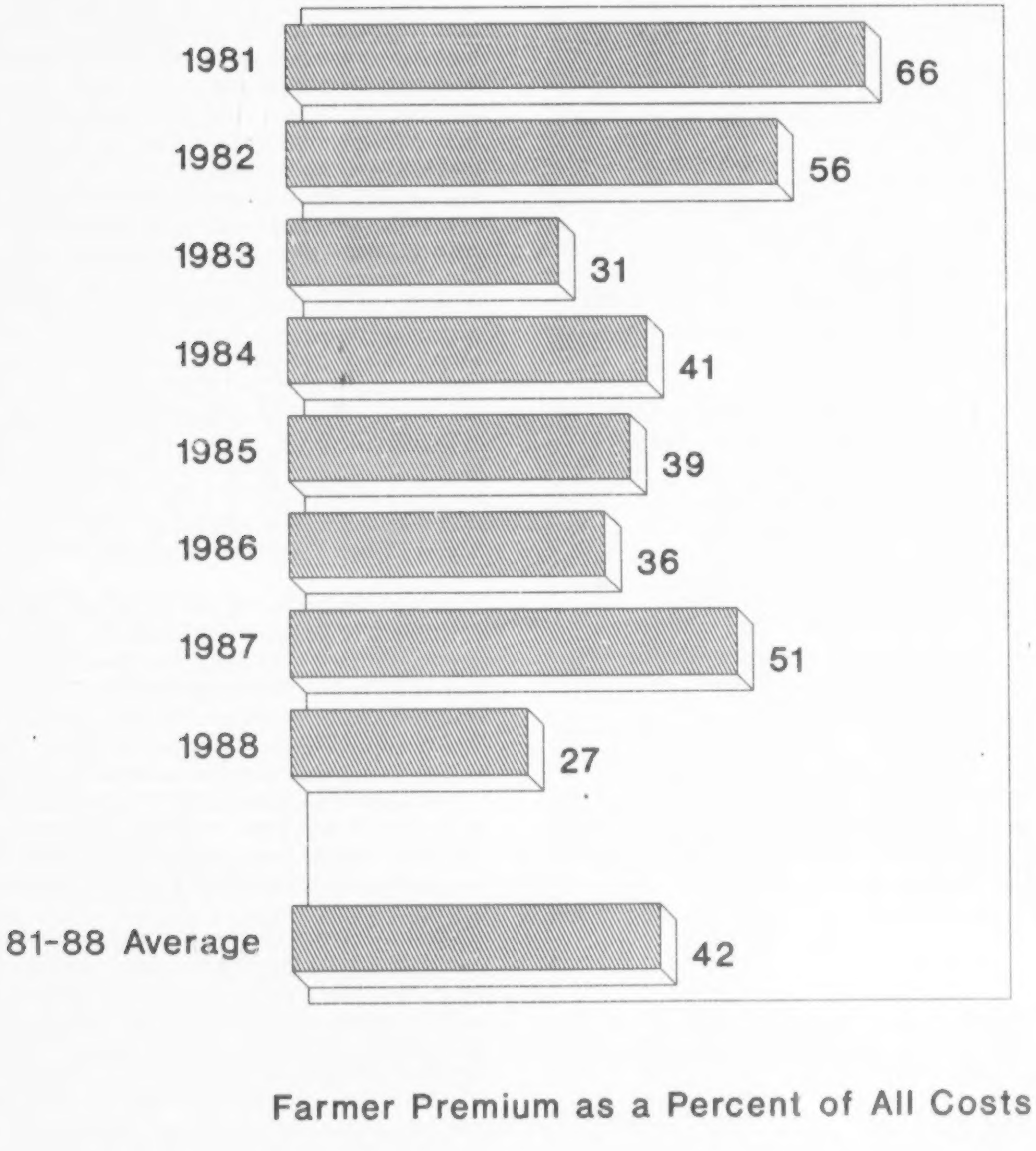


Fig. 22: Percent of Program Costs Paid by Farmers (1981-1988)

ers (MMA) in subsequent years. All administrative costs are presented by fiscal year. It is important to note that the FCIC's costs include costs of operating the entire program, not merely in delivering and servicing the insurance product. Because the FCIC must develop actuarial data for the policies, ensure compliance, and perform other oversight and regulatory functions, one should not expect the FCIC's costs to rise and fall merely on the basis of the percentage of policies directly marketed by the FCIC. The reason the costs have increased in recent years for the reinsured companies is because of the dramatically increased number of policies issued by these companies. Under the current standard reinsurance agreement for 1990, reinsured companies receive 34 percent of the value of the total premiums earned for servicing the policies. Master marketers who sell for the FCIC are reimbursed based on 20 percent of the value of the total premiums collected from farmers. The administrative costs for the FCIC are now under $100 million. Administrative costs for the reinsured companies have now surpassed $100 million.

In total, all costs averaged $465 million between 1981 and 1988. (See table 5.) On the basis of the net acres insured, total costs have averaged $10.50 per acre. The per net acre insured subsidies by fiscal year are shown in table 6. Figures 20 and 21 present the various costs associated with the Federal crop insurance program for 1981 through 1988. Figure 22 presents the percent of the costs of the program paid by farmers.

Part of the excess losses are shared by reinsurance companies. The standard reinsurance agreement details the conditions under which the reinsured companies share in the gains or losses. Excess loss subsidies are generally paid to companies if losses for the companies exceed 15.375 percent of the companies retained premiums. Gains/losses for all reinsured companies were as follows:

Year	*Gains / losses ($)*
1983	-2,341,269
1984	-418,984
1985	3,345,977
1986	8,036,789
1987	17,007,042
1988	-7,585,739

ADEQUACY OF SALES COMMISSION RATES AND FEDERAL PAYMENTS FOR SERVICES

Section 5(a)(2)(F) of the Federal Crop Insurance Commission Act of 1988 requires the Commission to examine "whether the sales commission rates and Federal payments for services performed by crop insurance companies and agencies are at the proper levels, taking into consideration, among other things, commission rates and payment levels charged in other property insurance programs in which the Federal Government participates."

In its April report, the Commission recommended that the Federal Crop Insurance Corporation (FCIC) should develop financial incentives to compensate agents and companies for the special efforts needed to maximize participation in the undeveloped insurance markets. The Commission made this recommendation because there is not a sufficient financial incentive under the current expense reimbursement system to increase sales in these markets. In addition, the Commission recommended that the FCIC implement a minimum commission payment or a flat payment as an incentive to expand the program in areas with small farms and low producer participation because the current system of commissions does not offset the fixed costs associated with selling and servicing Federal crop insurance in cases when the premium amount is very small.

The Commission continues to believe that the reimbursement rates and commissions in these situations are particularly not adequate to ensure the widespread delivery of the Federal crop insurance program. However, with regard to the rates and commissions that the FCIC has established under its general approach to expense reimbursements, the Commission does not have, at the current time, sufficient information to reach any final conclusions as to whether the sales commission rates and Federal payments for service by companies and agencies are at proper levels.

Under the current agency sales and service contract for the 1990 sales year, master marketers are compensated at a rate equal to 20 percent of the premiums collected and received by the FCIC within 12 months of the debt termination date on all of the FCIC's policies serviced by the master marketers. Under the current standard reinsurance agreement for the 1990 sales year, reinsured companies are reimbursed at a rate equal to 34 percent of the net book premium on all crop insurance contracts reinsured by the FCIC. The net book premium equals the total premiums payable by policyholders plus the FCIC premium subsidy, less cancellations and adjustments. For both master marketers and reinsured companies, agent commissions are paid out of the FCIC payments.

When compared to the national flood insurance program, it appears that the sales commissions and reimbursement rates under the Federal crop insurance program are generally low. In 1987, the FCIC reimbursed the reinsured companies for their administrative expenses at a rate of 30 percent of premium income on the policies they issued, and the master marketers received compensation at 15 percent of premiums collected on their sales. In 1988, the reimbursement rates for the reinsured companies and master marketers were approximately 34 percent and 20 percent, respectively. In general, agents for master marketers and reinsured companies receive for their service approximately 12 percent of the premiums. Under the national flood insurance program, the administrative expense allowance for private companies was 30.4 percent of the premium income in fiscal year 1988. This includes an allowance of 15 percent for agent commissions, the same percentage allowed for commissions on flood insurance policies issued directly by the government. The administrative expense allowance under the national flood insurance program for fiscal years 1986 and 1987 was 32.7 and 32.2 percent, respectively.

It should be noted that the administrative expense allowance under the national flood insurance program does not include funds for expenses that may be incurred by the companies in adjusting losses under that program; loss adjustment expenses are reimbursed separately. Under the Federal crop insurance program, any expense incurred by the reinsured companies in the adjustment of losses is considered an administrative expense and is supposed to be covered by the reimbursement for administrative expenses that the reinsured companies receive. The Commission understands that the average cost of adjusting losses may be as high as 15 percent of the premiums paid. This cost can effectively reduce the amount that the reinsured companies receive as reimbursement to pay other administrative expenses, including agent commissions, to 19 percent of premium income for the 1990 sales year.

There is a general belief among those involved in private delivery systems that they are not adequately reimbursed by the FCIC for their activities. It should be noted that the system for setting the rates was initially established in the early 1980's and there may not have been sufficient information to accurately estimate the costs involved since the role of the private delivery system was just beginning. The initial compensation rate schedules were established by the FCIC for each private delivery system on the basis of an analysis of the costs incurred by the FCIC in administering the Federal crop insurance program during fiscal year 1979. The initial rate for reimbursing the direct costs of loss adjustments incurred by the reinsured companies was based on the loss-adjustment expenses incurred by the FCIC during the previous 4-year period. In subsequent years, the FCIC has made adjustments in the compensation rate schedules to reflect, among other things, the increased work required of master marketers, reinsured companies, and agents as the result of (1) the FCIC's implementation of the actual production history program for establishing yield guarantees and (2) the necessity to determine compliance with the various conservation requirements of the Food Security Act of 1985.

Arthur Andersen and Company is in the process of completing a study on these issues for the FCIC. According to Mr. Marshall's letter of April 7, 1989, addressed to the Commission's Co-Chairmen, this study was "to address the concerns that reimbursement rates paid to reinsured companies and Master Marketers may not have been set correctly. It is also to examine the costs of the government versus the private delivery system and commissions paid to agents to be certain that they fairly compensate for the extra effort involved in crop insurance." During the Commission's meeting of July 7, 1989, Mr. Marshall stated that the part of the study relating to the rates paid to master marketers and reinsured companies and the commissions paid to agents has been completed. Mr. Marshall has indicated that a copy of the Arthur Andersen and Company study will be made available to the Commission shortly. At that time, the Commission will address this issue further and will report thereon during its monthly reporting process.

SALES, CLAIMS ADJUSTMENT, AND EDUCATIONAL EFFORTS

Section 5(a)(2)(G) of the Federal Crop Insurance Commission Act of 1988 requires the Commission to examine "the efficiency of sales and claims adjustment services provided to such producers who purchase insurance under the program,

and the effectiveness of the educational efforts to inform such producers about the program."

Prior to the enactment of the Federal Crop Insurance Act of 1980, the Federal Crop Insurance Corporation (FCIC) sold and serviced Federal crop insurance policies using its own employees, employees of the Agricultural Stabilization and Conservation Service (ASCS), and a small number of independent agents. At that time, the FCIC's employees adjusted all loss claims. Adjustment of loss claims is the assessment and determination of the amount and cause of the reduction in a crop's yield as compared to the approved yield for the commodity.

The 1980 Act directed the FCIC to use private insurance companies and licensed, private insurance agents and brokers, to the maximum extent possible, in providing Federal crop insurance to agricultural producers. Additionally, with the goal of eliminating the need for disaster assistance payment programs, the 1980 Act directed the FCIC to expand the program nationwide.

Subsequent to enactment of the 1980 Act, the FCIC developed an agency sales and service agreement and a standard reinsurance agreement. Under the agency sales and service agreement, an insurance company or organization (commonly referred to as a master marketer) agrees to sell and service FCIC insurance policies. The FCIC maintains responsibility for adjusting losses on the policies sold by master marketers. Under the standard reinsurance agreement, private insurance companies sell, service, and adjust the losses on policies they sell under their own names.

Because there are two delivery systems offering Federal crop insurance policies, there are some differences in procedures used in selling insurance and adjusting the losses. Achieving uniformity, to the maximum extent possible, in the policies and procedures of both delivery systems should greatly increase the efficiency of marketing and loss adjusting, in addition to increasing the producer's knowledge of Federal crop insurance.

In its April report, the Commission recommended that the FCIC establish a joint review committee consisting of the appropriate FCIC, master marketer, and reinsured company personnel to resolve, whenever possible, differences in procedures and policies. The FCIC has created a "Single Policy" working group that is in the process of developing common policies and procedures that could be used by both delivery systems. It is hoped that the current policies and procedures can be clarified and unified prior to the beginning of the 1991 crop year.

In general, the efficiency of crop insurance sales services is directly related to the quality of the product. In attempting to broaden participation and improve producer satisfaction with the Federal crop insurance program, the Commission has made numerous recommendations designed to improve the quality, and thus the marketability, of Federal crop insurance. These recommendations span the spectrum of producer concerns, affecting changes in yield guarantees, price election levels, unit definitions, and the level of government financial support.

Throughout the Commission's public hearings, producers expressed dissatisfaction with the claims adjustment services that are being provided. One of the concerns expressed during the Commission's public hearings was the need for the use of the same procedures in adjusting losses. Providing consistency and equity in loss adjustment procedures is critically important. The FCIC-industry joint review committee should aid in achieving uniformity in loss adjustment procedures.

One of the other concerns expressed by witnesses at the hearings was the need to provide for a simpler and more expedient loss adjustment process. The Commission, in the April report, recommended the expanded use of the ASCS acreage certification to eliminate the need for loss appraisers to perform final acreage measurement at the time of loss. When coupled with increased spotchecking, this recommendation would permit available loss-adjustment resources to be used more efficiently. The Commission also recommended, in the April report, that "settlement on appraisal" agreements be established to allow initial appraisals to be used for final claim settlement when the producer and the insurer agree to do so at the time of the initial appraisal. In the same report, the Commission recommended that a special task force be created to determine alternative methods of loss adjustment to provide for a more efficient use of manpower, time, and money.

In this report, the Commission is recommending that final claim adjustments, on crops yielding less than 20 percent of the program yield, be based on the loss appraisal, thereby providing producers the option to harvest the remainder of the crop without a penalty. The Commission believes that the producer is in the best position to weigh the advisability of harvesting a meager yield, and that this decision should not be a factor in the settlement of the claim.

The Commission believes that educating agricultural producers is critically important to the long-term success of the Federal crop insurance program. In the April report, the Commission recognized the need for a more effective educational effort by recommending the development of a comprehensive education and training program for all participants in the Federal crop insurance program, as well as associated government services. A well-coordinated educational effort should be undertaken to better inform all program participants of the importance of crop insurance in risk management. This general educational program should be designed to increase information availability to a cross section of agricultural interests.

To establish an effective education and training program, it is essential that all Federal crop insurance information be released by the FCIC (such as rates, policy changes, and forms) and in place for the entire upcoming crop by an early date. The Commission recommended this in its April report and urges the FCIC to implement this recommendation prior to the beginning of the 1991 crop year.

MAKING CROP INSURANCE SIMPLER, MORE UNIFORM, AND MORE STABLE

Section 5(a)(2)(H) of the Federal Crop Insurance Commission Act of 1988 requires the Commission to examine "the ways in which the provision of Federal crop insurance information and the procedures for obtaining such insurance may be made simpler, more uniform, and stable."

In the April report, the Commission addressed the problem of simplifying and stabilizing the program to streamline the provision of information and the procedures for obtaining Federal crop insurance. In particular, the Commission recommended the development of a comprehensive education and training program for all program participants, to improve overall access to insurance information.

The Commission also recommended that all pertinent USDA commodity program and crop insurance dates be synchronized, and that all producers, when insuring their commodities, be allowed to use a simple certification statement for soil conservation compliance issues. Another recommendation was to limit the Federal Crop Insurance Corporation's (FCIC) changes in policies, forms, rates, and procedures for the 1990 crop year to the changes identified in Commission reports.

The Commission further recommended that all Federal crop insurance information released by the FCIC (such as rates, rules, policy changes, and forms) be in place, for the entire upcoming crop year, by an early date.

In this report, the Commission is recommending that the FCIC be required to announce the maximum price election level not later than 60 days prior to the sales closing date for insurance for a commodity and permit the producer to select any level up to the maximum level.

The Commission also recommends that the presentation of the insurance coverage guarantee be changed to a dollar amount of coverage per acre. Under this method, once the dollar amount of coverage that meets the producer's needs is chosen, a corresponding level or percentage of coverage would be selected.

Another recommendation in this report would require the FCIC to offer insurance coverage for a commodity in all counties in a State if the FCIC offers such coverage in any county in the State, improving the ability of producers to obtain insurance coverage for their agricultural production.

Finally, the Commission is recommending that presentation of rate and coverage exceptions in an insurance policy be improved by clearly stating all exceptions, requirements, restrictions, or other provisions concerning coverage and ensure that they are presented in a manner to permit the automation of the data using computer technology. Computer automation would simplify and streamline the procedures involved in obtaining insurance coverage.

ADEQUACY OF COMPLIANCE

Section 5(a)(2)(I) of the Federal Crop Insurance Commission Act of 1988 requires the Commission to examine "the adequacy of compliance efforts by insurance companies, agencies, and the Federal Crop Insurance Corporation to ensure program integrity."

Various audits by the General Accounting Office (GAO) and other governmental entities have indicated that the oversight of the crop insurance program by the Federal Crop Insurance Corporation (FCIC) could be improved. The reinsured companies, master marketers, and others have also encouraged the FCIC to increase its quality control and oversight efforts and, in this regard, to exercise sound judgment in determining what constitutes a noteworthy error. Too often, the FCIC has focused its compliance efforts on such things as minute differences in field measurements or professional judgment where there was no evidence of the use of unacceptable practices.

The FCIC, in recent years, has taken steps to improve its oversight of the program. It has greatly expanded its compliance efforts and has established a compliance division that is headed by an assistant manager. The compliance division will have five field offices this year. The primary function of the compliance division is to review and evaluate the operations and activities of the reinsured companies, the master marketers, and the FCIC program activities to ensure compliance and uniformity in sales and loss adjustment procedures, training development, quality control methods, and other areas involving service and program operations. The division is also responsible for making recommendations to the manager of the FCIC regarding appropriate and corrective action to be taken in cases of noncompliance by reinsured companies and master marketers.

In addition, the current reinsurance and master marketing agreements require the companies to implement a compliance program approved by the FCIC. Data from the FCIC indicate that significant progress has been made in this area recently.

The Commission would also note that the FCIC has begun to implement the recommendations in the Commission's April report for the establishment of performance standards, performance review, and account executive positions for the reinsured companies and master marketers. The Commission believes that these steps will greatly reduce the quality control problems that have existed in the program.

The Board of Directors of the FCIC should have clear authority for establishing broad management policies for the Corporation and for ensuring that its operations are carried out in an effective manner. In this regard, the Commission recommends that the Board ensure that the Corporation use, to the maximum extent possible, the impartial review process for rates and rule changes, and the producer-industry advisory committees for program development and review, that the Commission recommended in its April report.

FINANCIAL INSTITUTIONS

Section 5(a)(2)(J) of the Federal Crop Insurance Commission Act of 1988 requires the Commission to examine "the extent to which financial institutions require such producers to purchase crop insurance as a prerequisite to making credit available to such producers."

In a national survey of farmers who grow corn, wheat, soybeans, cotton, rice, or grain sorghum, the Economic Research Service (ERS) of the Department of Agriculture, in cooperation with the University of Maryland, asked farmers who had debt, "Were you required to sign up for Multiple Peril Crop Insurance in order to get or maintain a loan?" Although, this survey is not a sample of all farmers, the results can, generally, be applied to the total population of all farmers in the United States.

Of the farmers responding to the question regarding the requirement to purchase Federal crop insurance, 20 percent indicated that they were required to purchase insurance to obtain or maintain a loan. Of those who were required to purchase insurance, 36 percent were required by the Farmers Home Administration (FmHA), 18 percent were required by an institution of the Farm Credit System (FCS), 48 percent were required by a bank or a savings and loan institution, 1 percent were required by a life insurance company, and 5 percent were required by another individual.

Other surveys have been conducted for different States. These surveys demonstrate that there are widespread differences between lenders from different regions. For example, in a 1986 survey, South Dakota State University professors Burton Pflueger and Brian Schmiesing found significant differences between the various lenders regarding whether they encouraged borrowers to purchase Federal crop insurance. A table from their survey is reproduced below:

Table 7. Percent of Lenders Encouraging Borrowers to Purchase

Lender type	*Borrower Risk Class*				
	Superior	*Good*	*Average*	*Weak*	*Inferior*
All Lenders	14.9	21.0	42.5	59.1	61.9
FmHA	64.5	64.5	77.4	77.4	77.4
FCS	0.0	0.0	16.7	66.7	75.0
All Banks	5.1	13.0	37.0	54.3	57.2

FmHA—Farmers Home Administration
FCS—Farm Credit System

These results suggest that, when compared to lenders across the Nation, a higher percentage of lenders in South Dakota encourage borrowers to purchase Federal crop insurance. The results also demonstrate that lenders in South Dakota are not as likely to encourage their lower-risk borrowers to purchase insurance.

In a survey of both producers and lenders for different regions in Texas, Texas A & M University professors Knight, Lovell, Rister, and Coble found that attitudes varied significantly between producers and lenders and among both producers and lenders in different regions. While only 19 percent of the producers indicated that they believed the purchase of Federal crop insurance would make lenders view a loan request more favorably, 68 percent of the lenders indicated that they would view a loan request more favorably if the borrower purchased crop insurance. Additionally, lenders in different regions of the State had significantly different views regarding the efficacy

CROP INSURANCE PURCHASE REQUIREMENT UNDER THE DISASTER ASSISTANCE ACT OF 1988

Section 5(a)(2)(K) of the Federal Crop Insurance Commission Act of 1988 requires the Commission to examine "the effect of the crop insurance requirements imposed under section 207 of the Disaster Assistance Act of 1988 (7 U.S.C. 1421 note) on participation in the program."

The Disaster Assistance Act of 1988 requires certain producers with losses in excess of 65 percent to purchase crop insurance for the 1989 crop of the commodity for which disaster payments, forgiveness of the advance deficiency payments, or Farmers Home Administration (FmHA) emergency loans are sought. This requirement can be waived if one or more of the following conditions exist: (1) if crop insurance is not available; (2) if the producer's annual premium rate for the insurance is greater than 125 percent of the average premium rate for the 1988 crop in the producer's county; (3) if the producer's annual premium is greater than 25 percent of the disaster payment, emergency loan, or the forgiveness of the advance deficiency payment; or (4) if the producer can establish to the Agricultural Stabilization and Conservation county committee or the FmHA county committee that the purchase of crop insurance would impose an undue financial hardship on such producer.

In a national survey of farmers who grow corn, wheat, soybeans, cotton, rice, or grain sorghum, the Economic Research Service (ERS) of the Department of Agriculture in cooperation with the University of Maryland asked a series of questions that provide insight into the percent of the increase in participation in the 1989 Federal crop insurance program resulting from the requirement to purchase crop insurance under the Disaster Assistance Act of 1988. Although this survey is not based on a sample of all farmers, the results can be applied to all farmers in the United States.

Of the ERS sample, 27.6 percent of the farmers stated that they had signed up for multiple peril crop insurance for the 1988 crop. Since the percent of net acres insured in 1988 was 24.5, this suggests that the size distribution (as measured by acreage) of farmers buying crop insurance is close to the size distribution of the total farm population. Approximately 44 percent of the farmers stated that they had signed up for multiple peril crop insurance for the 1989 crop year. In examining responses from the farmers who purchased Federal crop insurance for the 1989 crops but did not for the 1988 crops, 76 percent had received some type of disaster assistance for the 1988 crop and 59 percent of the farmers were required to purchase crop insurance in 1989 to receive disaster assistance. Of the farmers who were required to purchase crop insurance for the 1989 crop but who had not purchased crop insurance in 1988, 37 percent indicated that, without the requirement, they would not have purchased crop insurance for the 1989 crop.

Using the information obtained from the ERS survey, it can be assumed that only 37 percent of all farmers, rather than 44 percent, would have participated in the Federal crop insurance program for the 1989 crops if they had not been required to purchase crop insurance to be eligible for disaster assistance. Since this suggests that 7 percentage points of the current market may leave the program as it is currently structured, the importance of implementing improvements cannot be overemphasized.

NATIONWIDE PREMIUM POOLS WITH GROUP RATES

Section 5(a)(2)(L) of the Federal Crop Insurance Commission Act of 1988 requires the Commission to examine "the feasibility of adopting 'premium pools' that would set a single, nationwide 'group' premium for each agricultural commodity." Additionally, the Commission is required to examine the effect that premium pools would have on the premiums paid by producers and on government subsidies of premiums.

A premium pool with group rates would generally involve sharing of risks by some definable group where every individual within the group would pay the same premium rate. The concept of setting a single, nationwide "group" premium rate for each agricultural commodity is fundamentally flawed. Premiums paid for crop insurance are designed to reflect the underlying risk of production for the commodity. As these risks vary tremendously from region to region for the same commodity, providing one rate for a commodity produced all over the country would result in rates that would be far too high in some areas and far too low in other areas.

The Commission believes a voluntary crop insurance program with nationwide "group" premium rates is not feasible as only farmers in high-risk areas would have an incentive to participate. In fact, the only way to make a voluntary program work would be to charge farmers in low-risk areas rates that are below an actuarially sound rate (i.e., a rate where the long-run payments in indemnities should equal premium payments). Such a system would very likely cost more than the combined ad hoc disaster assistance and Federal crop insurance program during the 1980's.

Thus, the Commission considered the establishment of a premium pool with group rates in which participation was mandatory for all producers of Agricultural Stabilization and Conservation Service (ASCS) program commodities by tying ASCS program benefits to program participation.

The design would very likely involve a check-off mechanism under which all producers of a commodity would be assessed a certain percentage of the value of sales or ASCS program deficiency payments, or both. All producers would, in effect, be charged the same premium. The difference between a national, actuarially sound rate and the rate charged would be the subsidy for this option. Thus, the level chosen would determine the cost to the taxpayer. For example, the average premium paid by corn producers is approximately $7.00 per acre. The current subsidy on that $7.00 per acre is approximately $1.75. These values could be used to determine the level of the assessment and the amount of subsidy needed. However, with the higher levels of participation, one might expect the actuarially sound premiums to be lower and these savings could be used to reduce the assessment.

Under a voluntary program, producers in high-risk areas would be receiving substantially more subsidies than those in low-risk areas. Under a mandatory or voluntary program, farmers in low-risk areas would pay the same as farmers in high-risk areas, thereby essentially providing for an income transfer from one set of farmers to another. This option would encourage production in high-risk areas. If the rate charged did not take into consideration other factors affecting risk, such as the production practices used, this option would likely encourage producers to shift from using irrigated practices to dryland practices and from using fallow to continuous cropping practices. Production would thus be encouraged in risky situations, such as in flood plains, poor soils, or highly erodible soils. Such a system would foster inefficient allocations of resources.

Additionally, a program that requires all producers of ASCS program commodities to participate would create an inequity between producers of commodities for which a Federal commodity program had been established and producers of other commodities. The threat of losing Federal commodity program benefits would provide a powerful incentive for participation in the insurance program for ASCS program commodity producers. But producers of nonprogram commodities who nevertheless benefit indirectly from other government programs such as federally subsidized water programs, marketing order programs, and export subsidy programs would face no equivalent withdrawal of benefits.

If participation was required for all agricultural producers, the collection of premium payments would likely be difficult at the national level, as many producers receive no direct payment from the Federal Government and are not directly involved in any Federal programs. To ensure collection, a detailed, cumbersome mechanism, probably requiring cooperation from all buyers of agricultural products, would be necessary.

Producer income would likely decrease under this program since participation in the current program is relatively low, and producers in low-risk areas would pay a higher rate than under the current program. Income for producers who do not currently participate would be reduced by the amount of the premiums charged. Finally, producers in high-risk areas would pay lower rates than at the present time; thus their net income would likely increase.

The Commission believes that the implementation of a voluntary or mandatory crop insurance program that uses nationwide, group premium rates would not be in the best interest of producers or taxpayers, regardless of the coverage level established for the group pool. In short, the Commission sees no merit associated with such a program.

The legislative history of the Federal Crop Insurance Commission Act of 1988 indicates that the Commission should consider the feasibility of providing, through low-risk pools, discounts and low premium rates to producers who have few claims and infrequent losses.

The Commission believes there is merit to providing incentives for low-risk producers with infrequent claims to enroll and remain in the Federal crop insurance program. However, the Commission believes that the best way to accomplish this is through the widespread expansion of an experience rating system and not through the establishment of a separate insurance pool for low-risk producers. An experience rating system rewards or penalizes producers through premium discounts and surcharges for their insurance experience. In the recommendations section of this report, the Commission recommends that the experience rating system be expanded.

EFFECTS OF INSURANCE ENROLLMENT REQUIREMENTS

The legislative history of the Federal Crop Insurance Commission Act of 1988 indicates that the Commission should consider the effects of insurance enrollment requirements on producers who receive Agricultural Stabilization and Conservation Service (ASCS) program payments or disaster payments, and on producers with high-risk Farmers Home Administration (FmHA) loans.

The possibility of making crop insurance mandatory for USDA program participation, including disaster assistance and commodity program eligibility, was often discussed in the Commission's 14 public hearings. These discussions underscored the divergence of opinions on these highly controversial and extremely important issues.

A majority of those expressing an opinion at the Commission's hearings were opposed to "mandatory cross compliance." Mandatory cross compliance is when eligibility for one program is conditioned on a person's participation in and compliance with the requirements of another program; for example, requiring participants of ASCS commodity programs to enroll in the Federal crop insurance program. One obvious problem with this form of mandatory cross compliance is that it places requirements on ASCS program participants without placing comparable requirements on producers who benefit indirectly from ASCS programs or on producers who receive benefits, directly or indirectly, from other agricultural programs, such as the federally subsidized water program or the USDA export programs. In addition, it has been suggested that mandatory cross compliance would create a disincentive for ASCS program participation, which, in turn, is counterproductive to the long-term farm policy of the United States.

Certain producers were not eligible for disaster assistance under the Disaster Assistance Act of 1988 unless they purchased crop insurance for the 1989 crops. The effects of this requirement are included in the discussion of the "Crop Insurance Purchase Requirement Under the Disaster Assistance Act of 1988", pages 75–76.

In addition, under the Consolidated Farm and Rural Development Act, as amended by the Food Security Act of 1985, a producer is ineligible for an FmHA emergency loan if Federal crop insurance was available for such crop losses. This provision, however, does not apply to producers who suffered losses on crops planted or harvested before the end of 1986. Also, this provision does not apply to producers of crops planted for harvest in 1988, if they comply with the requirement, under the Disaster Assistance Act of 1988, to purchase crop insurance for the 1989 crop, unless their losses do not exceed 65 percent or they are granted a waiver due to their meeting one of the following conditions: (1) if Federal crop insurance is not available; (2) if the producer's annual premium rate for the insurance is greater than 125 percent of the average premium rate for the 1988 crop in the producer's county; and (3) if the producer's annual premium is greater than 25 percent of the emergency loan.

In fiscal year 1987, there were 2,548 emergency loans provided through the FmHA, and in fiscal year 1988 there were 554. Of these loans, one can assume that at least half of the producers were exempt from the requirement to purchase crop insurance. Because most FmHA borrowers are considered high-risk producers, farmers who are FmHA borrowers are more likely to routinely purchase crop insurance than are other farmers. Since surveys have shown that approximately 27 percent of all farmers voluntarily purchase crop insurance, and that participation is greater among high-risk producers, one can assume that the requirement to purchase crop insurance had only a marginal effect on participation in the Federal crop insurance program.

It has been suggested that all FmHA operating loan borrowers, approximately 102,000 producers, should be required to purchase crop insurance. As a lender of last resort, the FmHA provides low-interest loans to producers who are unable to receive credit from other lending sources, that is, producers who are considered a greater credit risk than commercially acceptable. These producers, more than many others, need crop insurance to ensure a steady cash flow. On the other hand, the cost of crop insurance may be at such a level that, when calculated in the producer's cash flow analysis, the producer's expenses exceed income, thereby resulting in a denial of the loan. At the same time, if a loan is approved under these circumstances, the likelihood of a loan default is increased.

Thus, while requiring crop insurance participation may appear to be a way of better ensuring the repayment of a government loan, the Commission believes that more intensive evaluation of this alternative is necessary.

It is difficult to estimate the amount of additional participation in the Federal crop insurance program that could be expected if mandatory cross compliance was applied to all FmHA borrowers with operating loans and ASCS program participants. As of July 3, 1989, there were 102,000 FmHA borrowers with outstanding operating loans. However, the overwhelming majority of these loans are more than a year old. In some cases, the loan may be in the process of liquidation, foreclosure, or another loan servicing action under the Agricultural Credit Act of 1987. It is unlikely that the FmHA will actually make 100,000 operating loans in a given year. A more realistic estimate of the number of borrowers who would be affected by a requirement to purchase crop insurance would be based on the number of operating loans made or insured by the FmHA in 1 year. As of May 31, 1989, 17,605 operating loans have been made, and 7,597 have been guaranteed, by the FmHA, for a total of 25,202 operating loans in fiscal year 1989. The average number of operating loans made each year for fiscal years 1981-1988 is approximately 49,700. Given the general decline in the agricultural economy during the first half of the decade, this average is probably much higher than can be expected in the future. Only 33,020 operating loans were made in fiscal year 1988. Since the primary lending season for fiscal year 1989 is over, one can assume, at most, approximately 30,000 operating loans will be made this year. Thus, for purposes of this discussion, it is assumed that approximately 33,000 operating loans will be made in fiscal year 1990. One can assume that between 27 and 44 percent of these borrowers have crop insurance. These assumptions represent participation estimates immediately preceding and following the 1988 drought. If the participation percentages are correct, a requirement to purchase crop insurance would add between 18,480 and 24,090 participants in the Federal crop insurance program, assuming that all borrowers had access to Federal crop insurance.

While there is no specific data available on the number of producers who participate in ASCS commodity programs, it has been estimated that 1.2 million producers enrolled 168.1 million acres in the 1989 ASCS commodity programs. It can be assumed that, based on the Federal Crop Insurance Corporation's (FCIC) estimate of participation levels for the 1989 crop year, 44 percent (528,000) of these producers have Federal crop insurance. Thus, 672,000 additional producers would be required to purchase crop insurance. Since 29.2 million acres out of the total 168.1 million acres enrolled in the 1989 ASCS programs will be idled and placed in a conserving use, each additional participant in the Federal crop insurance program will increase the acreage enrolled in such program by approximately 116 acres. Thus, the net increase in acreage would be approximately 78 million acres.

INVOLVEMENT OF PRIVATE INSURANCE INDUSTRY IN THE FEDERAL CROP INSURANCE PROGRAM

The legislative history of the Federal Crop Insurance Commission Act of 1988 indicates that the Commission should also assess the involvement of the private insurance industry in the Federal crop insurance program to determine the most practical and cost-effective method of providing crop insurance.

The Commission believes that the reinsured companies, master marketers, agents, and agricultural producers have not been given sufficient opportunity to assist the Federal Crop Insurance Corporation (FCIC) in developing a practical and cost-effective method of providing crop insurance.

In its April report, the Commission addressed many problems that have resulted from the lack of opportunity for involvement by the private insurance industry, as well as agricultural producers, in the development of an effective and affordable crop insurance program. A number of the recommendations in that report directly relate to how the opportunity for such involvement could be improved. These recommendations include the establishment of local committees composed of producer and industry representatives to review new and existing programs, an expanded review process to evaluate and analyze the effect of proposed rates, rules, and changes on producers and the private delivery systems, and the establishment of a joint FCIC-private industry committee to resolve differences in procedures and policies. The FCIC has indicated that it has begun to implement these proposals, and the Commission anticipates that the involvement of the industry and agricultural producers in the decision-making process will be greatly improved as a result.

In addition, the Commission elsewhere in this report is recommending a number of methods for the improvement of the administration of the FCIC. These methods include, for the short-term, the establishment by the Secretary of Agriculture of a broad-based committee to advise the FCIC on the operation of the program. Another short-term recommendation is for the FCIC to contract with private individuals and organizations to assist in the performance of the underwriting function, including the development and analysis of statistical data, and other program support functions now being performed by personnel of the FCIC. For the long-term, the Commission is recommending that Congress enact legislation to create a new Corporation to administer the Federal crop insurance program and to provide for a statutorily mandated advisory committee for the Corporation that is composed of producer and insurance industry representatives. The Commission believes that, if these recommendations are adopted, the resulting increased involvement of the private insurance industry in the Federal crop insurance program will (1) help meet the goal of operating the program on an actuarially sound basis, (2) improve the efficiency of the administration of the program, (3) increase the cost-effectiveness of the program, and (4) expand participation in the program by producers.

FEASIBILITY OF PROVIDING REVENUE INSURANCE

During deliberations on the Federal Crop Insurance Commission Act of 1988, the Commission was requested to consider the feasibility of revenue insurance.

Revenue insurance would be structured to insure against the risk of highly variable income by guaranteeing a farmer that annual revenue per acre for specific commodities would be not less than some percentage of average revenue from those commodities. Revenue that is insured could be either gross revenue (price times yield) or some measure of cost of production. Presumably, the insurance would be offered at a subsidized cost to farmers.

The Commission does not believe that revenue insurance offers a feasible option at this time. Revenue insurance is a concept that is very attractive in principle but fraught with implementation problems that very likely would make it unworkable. In principle, revenue insurance could replace both crop insurance and commodity programs. If participation levels were high enough, revenue insurance could provide good catastrophic protection to farmers. In the absence of both commodity programs and crop insurance, participation levels would depend on the degree of subsidization of the premium rates. To the extent that farmers are charged a premium that is consistent with the risk they face, such an alternative would lead to greater economic efficiency.

Revenue insurance would suffer from all of the problems the Federal crop insurance program has and more. Adverse selection would be a particular problem, as accurately gauging the farmer's average or potential revenue would be essential. If the premium rates represented average risk levels, then farmers with high-risk would be encouraged to participate and farmers with low-risk would not. Establishing a fair and equitable level of coverage for individual farmers would be a key to the success of a revenue insurance program. This would involve an assessment of the probable farm yield and price. Developing premium rates for the product would be even more difficult, as the combined probabilities of a farmer's yield and the market prices must be known. An unforeseen event could cause market prices to drop to levels where nearly all farmers would receive an indemnity payment. Thus, the program would be subjected to great pressures as agricultural prices tend to be cyclical.

The Commission believes that statements from the study of this topic mandated by the Agriculture and Food Act of 1981 remain relevant. For that reason, the conclusions from Part V of "The Farm Income Protection Insurance Program Task Force: A Report to the United States Congress", June 1983, USDA (page 28) are reprinted below:

> **Conclusions (from Part V)**
>
> Income insurance is not recommended at this time as a substitute for existing disaster assistance, price support, and income maintenance programs. Rather, income insurance should be more fully evaluated before being implemented on a broad scale.
>
> The replacement of disaster assistance programs with multiple peril insurance has already been initiated and should be promoted as a first step if a successful comprehensive income insurance plan is to be developed. The success of the disaster program (as measured by producer participation and actuarial soundness) would establish insurance as a viable risk management tool for agriculture. At the same time, a pilot program for revenue insurance (as described in Part VII of this report [of the task force]) would provide information on insurance that extends indemnification to include losses due to unfavorable economic conditions.
>
> With the experience of the pilot program and the replacement of disaster payments, the extension of insurance to cover higher levels of income and thus supplant deficiency payments could be considered. Raising the level of guarantee would have differential impacts across commodities, depending on production costs. Thus, coverage levels would be an important factor in determining the feasibility of insurance as a substitute for income maintenance programs.
>
> Price support programs promote stability in agricultural markets and provide price floors. In some markets, the loan rate acts mainly as an orderly marketing guide, while in others it may represent a substantial portion of production costs. Income insurance as proposed here will not be attractive to a producer whose commodity loan rate already provides significant income protection. While the abandonment of price supports would make insurance appealing to a wider range of producers, it would also have the effect of lowering prices and increasing their instability, as discussed earlier. The Task Force believes further consideration of the role of price supports is required before insurance can be recommended as a substitute.

ACTUARIALLY SOUND RATES

The Federal crop insurance program, as currently structured, has failed to meet the intent of the Federal Crop Insurance Act that the program would be operated on an actuarially sound basis. Under the Act, the Board of Directors of the Federal Crop Insurance Corporation (FCIC) is required to establish premium rates at a level sufficient to ensure that the rates are actuarially sound and will provide for the expeditious establishment of a reasonable reserve for unforeseen losses. For premium rates to be actuarially sound, the rates, computed in accordance with probabilities based on statistical records, must be sufficient to generate premium income to cover all claims for insurable losses. In other words, over time, the premiums collected under the program from producers, in addition to the premium subsidy provided by the Federal Government, will equal all indemnities paid, therefore resulting in a loss ratio of 1.0.

The Commission believes that it is important to operate the Federal crop insurance program on an actuarially sound basis as intended by the Federal Crop Insurance Act. In addition, the Commission supports efforts to develop adequate data to establish actuarially sufficient premium rates within the next 5 years in order to provide, among other things, a sound basis for the private reinsured companies to assume a greater share of the risks associated with the program. Since reinsured companies do not establish the premium rates and therefore do not have the ability to ensure that the rates are actuarially sufficient to cover all losses, it is impractical to require the reinsured companies to assume more of the risk burden of the program.

The Commission, elsewhere in this report, is recommending that the FCIC contract with private individuals and organizations to perform many of the program support functions now being performed by FCIC personnel. If the FCIC uses the services of private contractors to assist in the performance of the underwriting function, including the development and analysis of statistical data upon which sound rates can be established, the Commission believes that the FCIC will be able to develop actuarially sound rates within the next 5 years. The development of actuarially sound rates should result in the reduction, if not the elimination, of the "unintended" subsidy of the program that results when claim adjustment losses exceed the amount of farmer-paid premiums and the Federal subsidy earned. If the rates were actuarially sound and the premium subsidy was sufficient to make Federal crop insurance affordable, the need for other disaster relief programs for agricultural producers should be substantially eliminated.

NEED FOR INJUNCTIVE RELIEF

As noted elsewhere in this report, producers and delivery system organizations have difficulty in receiving fair and impartial reviews of adverse decisions by the Federal Crop Insurance Corporation (FCIC) because of the lack of an independent appeals procedure. This problem is often compounded in many cases because the decision is not subject to prompt and meaningful judicial review. Judicial review of adverse decisions of the FCIC is limited by the provision in the Federal Crop Insurance Act that prohibits injunctions or similar processes from being issued against the Corporation. In addition, the prohibition against injunctive relief has also been applied in suits brought against the Secretary of Agriculture on matters involving the FCIC.

The Commission is currently reviewing this matter to determine whether legislation may be advisable to remove the statutory prohibition against injunctive relief. Upon completion of this review, the Commission will notify Congress through its monthly reporting process if the Commission finds a clear need for such legislation.

EVALUATING THE COSTS OF FEDERAL CROP INSURANCE

As the primary objective of this Commission has been to increase participation, part of the issue associated with that objective involves the costs. The section on the Nature and Extent of All Government Subsidies provides a setting for evaluation of costs. A few items are essential to understanding the costs associated with the program. First, the $70 million for administrative and operating costs for the Federal Crop Insurance Corporation (FCIC) will be considered fixed. In other words, there would not be a net increase in these costs as any additional costs associated with the increased volume of business would be offset by the savings from increased contracting with private individuals, companies, and organizations. Second, the administrative and operating costs paid to the master marketers and the reinsured companies are approximately 34 percent of the value of total premiums. Third, the average loss ratio for total premium for 1981–1988 was 1.56. Thus, an assumed loss ratio of 1.56 will be used for the current business (25 percent of the eligible acres). There is strong reason to believe that the new business would be less risky than the pool of farmers currently buying Federal crop insurance. Therefore, the new business (any percent of eligible acres above 25) will be assumed to have a loss ratio of 1.0.

In crop year 1988, total premiums, including the premium subsidy, equaled $435 million. At an assumed loss ratio of 1.56, this suggests excess losses of $244 million for a total premium of $435 million. This value, added to the fixed FCIC costs of $70 million, provides a base cost of $314 million. Other costs vary as the participation increases. The crop year 1989 estimate of total premiums at 40 percent participation and $7.75 per acre is $738 million. Since approximately 40 percent of the total premiums is for coverage at the 75 percent level of protection that is subsidized at levels below 30 percent, the premium subsidy is approximately 25 percent of total premiums, or $184 million. Reimbursement to the master marketers and the reinsured companies, combined, average approximately 34 percent of total premiums or $251 million. Thus, the estimated 1989 crop year costs, assuming a participation rate of approximately 40 percent, is $750 million. These calculations appear in table 8 with estimates that assume higher participation levels.

Table 8. Estimated Costs Under Different Participation Levels With Current Subsidy Arrangement

(dollar amounts in millions)

Acres (Percent)	*Total Premium*	*MMA & Reinsured*	*Premium Subsidy*	*Fixed Costs*	*Total Costs*
40	$ 738	$251	$184	$314	$750
50	922	314	231	314	858
60	1,107	376	277	314	967
70	1,292	439	323	314	1,076

Table 9. Estimated Costs Under Different Participation Levels: First Year of Proposed Subsidy Arrangement

(dollar amounts in millions)

Acres (Percent)	*Total Premium*	*MMA & Reinsured*	*Premium Subsidy*	*Fixed Costs*	*Total Costs*
40	$762	$259	$348	$314	$923
50	952	324	438	314	1,075
60	1,142	388	526	314	1,228
70	1,332	453	613	314	1,380

Table 10. 5-Year Participation at Different Coverage Levels, Premium Costs, and Subsidies Under Commission's Subsidy Proposal

Year	*Percent of Premiums for Coverage at*		*Average Premium $/acre*	*Premium Subsidy:* 5-year Reduction*	*Weighted Subsidy Percent*
	65 Percent Level	*75 Percent Level*			
1991	55	45	$8.00	50%	46
1992	50	50	8.15	46	43
1993	45	55	8.30	42	39
1994	40	60	8.45	38	36
1995	35	65	8.60	34	33

In 1986, the premium subsidy will be 30 percent.

Table 11. Estimated Costs for Federal Crop Insurance Based on Commission Recommendations

(dollar amounts in millions)

Year	*Percent of Potential Acres*	*Total Premium Earned*	*MMA & Reinsured*	*Premium Subsidy & FCIC*	*Excess Losses*	*Total Costs*
1991	50	$ 952	$324	$438	$314	$1,075
1992	52	1,009	343	434	314	1,091
1993	54	1,067	363	416	314	1,093
1994	56	1,126	383	405	314	1,102
1995	58	1,187	404	392	314	1,109

The Commission has proposed a temporary, additional subsidy for coverage up to 65 percent of yields and a permanent 30 percent subsidy for coverage up to 75 percent of yields. The temporary, additional subsidy would be 20 percent of the premium the first year, 16 percent the second year, 12 percent the third year, 8 percent the fourth year, and 4 percent the fifth year. In the first year, this plan should encourage producers to purchase coverage at the 75 percent coverage level more than the current subsidy does. Currently, approximately 60 percent of the premium dollars are for coverage up to the 65 percent level and 40 percent of the dollars are for coverage at the 75 percent level. Under the proposed temporary, additional subsidy, it is assumed that the percent of premium dollars for coverage at the 75 percent level will increase 5 percentage points per year. During the first year of the proposed temporary, additional subsidy, the weighted average subsidy would be 46 percent of the total premium. Thus, the costs are developed in table 9 for the first year of the proposed additional subsidy at various participation levels.

To provide a more reliable estimate, it is necessary to estimate participation levels after the enactment of the Commission's recommendations. The 1989 crop year participation rate is estimated at 40 percent. It is further estimated that 15 percent of the current participants (or 6 to 7 percentage points) are transitory due to the requirement, under the Disaster Assistance Act of 1988, for certain recipients to participate in the 1989 crop insurance program. Therefore, the 1990 crop year estimate, without modification, is 35 percent.

The average premium per acre is approximately $7.75 without any subsidy. With the current subsidy of 30 percent of premiums, the farmer's share is $5.81. When the temporary, additional subsidy is included in the first year, the farmer's share equals $4.50. This represents a price reduction of approximately 23 percent. After adjusting the percent of the decrease to reflect the elasticity of demand, participation should increase by 25 percent. Due to the reduction in price, the participation rate should equal 45 percent of potential acres. It is further assumed that other recommendations of the Commission will increase participation by an additional 5 percentage points. Therefore, the forecast for participation is 50 percent of potential acres in crop year 1991. From 1981–1988, the participation rate increased approximately 2 percentage points per year. It is assumed that this trend will continue.

In addition to the costs of the temporary, additional subsidy, the Commission also recognizes that the transition to the recommended yield coverage plan will increase costs even without a corresponding increase in participation. However, until further analysis is performed, these costs will not be taken into consideration.

As the Commission believes that the primary costs associated with the Commission's recommendations will be the premium subsidy, these are the costs that are evaluated in developing future cost estimates.

The proposed temporary, additional subsidy would be in place beginning with the 1991 crop year. It is assumed that the phase out would begin in crop year 1992 with a reduction of 4 percentage points in the additional subsidy each year. When the additional subsidy is added to the basic subsidy of 30 percent, the total subsidy for coverage levels up to 65 percent of yields would be 50 percent, 46 percent, 42 percent, 38 percent, and 34 percent for crop years 1991, 1992, 1993, 1994, and 1995, respectively. The cost savings that would result from the phase down of the additional subsidy would be offset as more farmers would begin to purchase coverage at the 75 percent level by the 1994 crop year. By crop year 1995, it is estimated that 65 percent of the total premiums earned will be for coverage at the 75 percent level with the remaining 35 percent at or below the 65 percent level. Developed in table 10 are the premium costs and the subsidy, weighted to reflect the percent of all premiums for coverage at the 75 percent level and the percent of all premiums for coverage at or below the 65 percent level.

Under the assumption that potential acres will remain at 238 million, the data presented in table 10 are used for the final estimates of costs for each of the crop years 1991 through 1995 in table 11.

Using the same set of assumptions, the changes due to the proposed temporary, additional subsidy can be compared to the current program with the current 30 percent subsidy. Without the additional subsidy, the participation rate would be approximately 40 percent. The cost of the current program, with the current 30 percent subsidy, would be approximately $750 million if the participation rate were 40 percent of potential acres. The cost, in the first year, of the program with the additional subsidy would be $1,075 million, or an additional $325 million with a participation rate of 50 percent.

The Commission believes that the cost of the additional subsidy, aimed at increasing participation to the 50 percent level, would be a wise investment as participation at that level could greatly reduce, if not completely eliminate, the need for ad hoc disaster assistance. The cost of providing low-yield and prevented planting disaster payments for calendar years 1981 through 1987 was slightly more than $1.46 billion, an average of $207 million per year. When the payments made under the Disaster Assistance Act of 1988 are included, the total cost of disaster assistance since 1981 is approximately $5.1 billion, an average of approximately $565 million per year. If Congress spends an additional $900 million this year for disaster assistance, the 10-year total would be $6 billion, for a 10-year average of $600 million per year. These figures do not include the additional $826 million in expenditures over this period for emergency livestock feeding programs or the $145 million in Agricultural Stabilization and Conservation Service administrative costs associated with providing disaster assistance.

The Commission believes that if an amount equal to half of the funds spent, on average, for disaster assistance since 1980 were to be devoted to the Federal crop insurance program, Congress would no longer be faced with annual, ad hoc disaster assistance legislation. Therefore, the Commission believes that the additional cost associated with the Commission's recommendations is a reasonable expenditure of taxpayer funds.

STATUS OF THE RECOMMENDATIONS CONTAINED IN THE COMMISSION'S INTERIM REPORT

In accordance with the Federal Crop Insurance Commission Act of 1988, this section of the report sets out the status of the steps taken by the Secretary of Agriculture and the Federal Crop Insurance Corporation (FCIC) to improve program administration based on the recommendations contained in the Commission's interim report issued in April.

This section includes each recommendation made in the April report; the FCIC's response to the recommendation as provided on June 15, 1989; and, where appropriate, the Commission's comments.

1. COMMISSION RECOMMENDATION

The Commission recommends, for the 1990 crop year, that the FCIC offer two alternative coverage plans: general coverage based on Agricultural Stabilization and Conservation Service (ASCS) yields and modified actual production history (APH) coverage based on the previous 5 years of data rather than 10 years. The use of ASCS yields would apply to program crops only. Nonprogram crops and soybeans would be eligible for the modified APH program. For program crops, general or APH coverage may be selected on a crop basis. The APH yield calculated from 5 years of data could not drop below the ASCS yield regardless of the actual calculated yield.

FCIC RESPONSE

FCIC agrees that alternative approaches to providing adequate coverage levels should be considered. The FCIC is reviewing a number of alternatives, including a modified APH approach. FCIC will explore the willingness of ASCS to provide yield bases consistent with crop insurance policy provisions.

One alternative yield plan FCIC is considering is described below to solicit the Commission's view on its merits:

Modified APH Approach: The current APH yield offered the producer for insurance purposes is the 10-year average of estimated and documented yields. The estimated yield, or transitional (t-) yield, is used for years in which the producer is unable to document actual yields.

As an alternative approach, FCIC proposes that, for producers with at least 5 years of documented yields, the APH yield would be the average of the documented yields after dropping the high and low yields from the series. The number of documented yields over time would build to a 10-year base, each year adjusting the yield offer for the prior year experience and dropping the high and low yields.

The alternative approach would allow for more rapid adjustment in the yield offer to reflect actual experience. Further, as recommended by our Extension Service Study Group, dropping high and low yields from the series would protect producers against an occasional bad year and would protect the insurer against inflated offers resulting from bumper crops.

APH yield for producers with fewer than 5 years of documented records would substitute the certified yields for transitional yields in an initial 5 year base. "Olympic scoring" would not apply for fewer than 5 years of documented records.

ACTUARIAL OR COST IMPACT: Beginning the APH process with a 5-year base, using proven yield numbers, assures FCIC of getting producer yields and begins the APH process. The use of "Olympic scoring" levels the yield to expected production and improves the soundness of the base.

REGULATORY IMPACT: The FCIC is in the process of developing standard regulations for the Actual Production History program which will not be impacted by this recommendation.

ADDITIONAL COMMENTS: ASCS based guarantees would be pursued only after actuarial review. An additional administrative cost would be incurred for ASCS yield adjustments. A rough preliminary estimate from ASCS suggests a workload expansion on the order of $10 million or more. The ASCS approach might be acceptable so long as producers can obtain ASCS yields that are adjusted for practice and crop type, with the offer subjected to underwriting review when multiple losses occur. An insurance offer without regard to practice, crop type, or loss history would exacerbate problems with adverse selection and moral hazard.

IMPLEMENTATION: FCIC intends to consider a range of alternative yield plans, including those that would use ASCS yields to an extent. When appropriate, public views on these alternatives will be solicited. The Commission is invited to consider and comment on the ASCS and modified APH alternatives.

COMMISSION COMMENTS

The Commission analyzed many different alternatives in arriving at the two yield plans recommended in the April report. The modified APH approach, suggested by the FCIC, was explored and rejected by the Commission because of its short-term effect on the producer and its long-term effect on program participation.

Throughout the Commission's 14 public hearings, many producers expressed negative reactions to requiring the use of up to 10 years of yield data for determining the program yield, even if "Olympic scoring" was used. "Olympic scoring" is when the average yield for a specified time period is adjusted by eliminating the highest and lowest year of production from the calculation. Implementation of the FCIC's alternative proposal, without considering the impact of the catastrophic losses experienced in recent years, would have an adverse effect on producers in the program at a time when attention is focused on improving participation in the program by providing a product designed to fulfill the risk management needs of producers. Agricultural producers in this country have experienced several catastrophic losses in the 9 years since the Federal Crop Insurance Act of 1980 was enacted. The alternative plan proposed by the FCIC would eliminate only one of the catastrophic loss years the producer has faced. The Commission believes that this is not the best available method of establishing realistic yield averages.

The Commission reaffirms its support for the two alternative coverage plans, for the 1990 crops, offered in the April report: general coverage based on ASCS yields and a modified APH coverage based on the previous 5 years of data, with the ASCS yield offered as a minimum yield. For commodities without ASCS program yields, an appropriate method for establishing yields for years without actual data should be developed by the FCIC, with producer and private industry input. The vast majority of farmers who currently have 5 years of data, but not 10, would find the Commission's modified APH plan attractive, since it would eliminate the severe impact of catastrophic losses while allowing the producer to benefit from technological advances made in the past 5 years. The potential impact of these benefits, in terms of both participation in and satisfaction with the program, are of paramount importance to the future success of the Federal crop insurance program.

While participation has increased during the 1989 sales year, the Commission believes it is imperative that every action be taken that would maintain participation at the 1989 levels. The recommendation in the Commission's interim report was developed with this in mind. The recommendations, concerning yield guarantees for years subsequent to 1990, provided in this report reflect the Commission's suggestions for developing the best coverage possible for the agricultural producers of the United States.

The Commission further requests the assistance of the Secretary of Agriculture, the appropriate ASCS personnel, and the manager of the FCIC in expediting the revision of ASCS established yields, for crop insurance purposes, to accurately reflect actual production, to establish farm yields by practice, and to establish ASCS yields for soybeans for crop insurance purposes.

2. COMMISSION RECOMMENDATIONS

The Commission recommends that the FCIC standardize the unit definition within regions for program crops and for soybeans. Similar field crops in an area should have the same unit definition. For 1990, basic units should not be larger than units represented by an ASCS farm serial number. Additionally, the FCIC should provide separate units for both irrigated and nonirrigated practices in all areas. The Commission does not intend for standardization of units to apply to specialty crops.

The Commission recommends that landlords for peanuts, cotton, rice, and tobacco farms be allowed to separate units by share tenant.

FCIC RESPONSE

FCIC agrees that consistency in this area is important and will consider initiating for 1990. We could propose to standardize units and extend their availability to all appropriate areas, including soybeans in the Southeast. Extension of unit division protection to landlords is appropriate for all crops except tobacco type "31," for which only one marketing card is issued per FSN. It is difficult to allocate production to individual tenants in this situation.

ACTUARIAL OR COST IMPACT: No additional direct administrative or program cost will be involved. The implementation of the consolidated unit recommendation will assure that adequate rate adjustments are built in for any exercise of unit divisions.

REGULATORY IMPACT: These changes require regulatory action, which could be achieved for the Spring of 1990.

ADDITIONAL COMMENT: Greater standardization of unit definitions is desirable as is the extension of unit division opportunities to the ASCS crops wherever they are grown. By combining two recommendations of the Commission, FCIC is attempting to coordinate the entire issue of unit definition for ASCS crops in all areas of the country. The application of the 1987 general rate increase for the soybean crop in the Southeast appears to make continuation of the unit division restriction inequitable.

IMPLEMENTATION: The deletion of unit restrictions, and appropriate changes in policy language, require the following 120-day regulatory schedule:

- FCIC language development: 30 days General Counsel and OMB review: 30 days
- Proposed Rule publication and public comment period: 30 days
- Final Rule publications and effective date: 30 days.

Agency action and regulatory review have begun and will be accelerated. Final policy changes, therefore, could be in place for spring-planted 1990 crops to meet the proposed October 1 program announcement date.

COMMISSION COMMENTS

The Commission appreciates the FCIC's response to the Commission's unit division recommendations. The Commission regrets that implementation will not be in time for the 1990 fall-planted crops. All efforts should be made to implement final policy changes in time for the October 1 program announcement date for the 1990 spring-planted crops.

The Commission regrets that the FCIC did not comment on its recommendation to separate irrigated and nonirrigated land. The Commission affirms its recommendation to allow optional units for the separation of irrigated and nonirrigated units. The Commission requests that the FCIC put forth every effort to develop optional units by farming practice for full implementation by the program announcement date for the 1990 spring-planted crops.

The Commission will continue to monitor the progress of the FCIC in implementing this important set of recommendations. Should the FCIC be unable to adequately address these issues, the Commission recommends that Congress enact legislation to ensure that these essential producer needs are met.

3. COMMISSION RECOMMENDATION

The Commission recommends that the premium rating structure be reworked. Optional units would be charged what could be termed the "typical rate" and the rate for those who decide to consolidate into a basic unit would be "discounted".

FCIC RESPONSE

FCIC has already begun to implement this recommendation. We will develop new "FCI 35" rate and coverage tables for distribution to industry, sales and service contractors, and FCIC field offices. The new rates will be based upon multiple unit coverage.

A discount of 10 percent will apply to producers who insure on a consolidated unit basis.

ACTUARIAL OR COST IMPACT: The action is actuarially neutral since it substitutes for the current surcharge. There will be only minor additional administrative expenses for printing and distribution of new rate schedules that will be absorbed within existing budgets. The visual quality of the documents will be improved substantially.

REGULATORY IMPACT: None. The changes are administrative.

ADDITIONAL COMMENT: FCIC is willing to make the necessary adjustments since they facilitate sales and contribute to general improvements in available actuarial, sales and service documents.

IMPLEMENTATION: Preparation of rate tables has begun and should be completed for distribution to industry for its reproduction and dissemination in time to meet deadlines, most importantly, July 1, 1989, for fall-planted crops. New procedures are under development and will be distributed to the delivery system during June.

COMMISSION COMMENTS

The definition of an insurance unit and the ability to have optional units are two of the major policy provisions that determine whether the insurance policy is useful to a producer. Testimony received during the Commission's public hearings demonstrates that producers want the opportunity to separate units by farm and by farming practice.

The Commission reaffirms its recommendation to implement changes in the FCIC's premium rating policy to provide a discount for unit consolidation rather than a surcharge for unit division, for the 1990 crop year beginning July 1, 1989. Producers have objected to the idea of paying additional premiums for the privilege of separating their basic units into optional units for insurance purposes when the optional units reflect the actual farming practices they have employed for many years.

There is some confusion surrounding the FCIC's implementation of this recommendation. The FCIC has raised the printed premium rate, quoted on each policy, by 10 percent, to reflect the use of optional units whether or not they are available for the commodity insured. However, this rate will only be charged to those who actually divide their basic unit into optional units. Those who maintain their basic unit will receive a 10 percent discount from the quoted premium.

4. COMMISSION RECOMMENDATION

The Commission recommends that farmers be allowed to use written agreements to exclude high-risk land.

FCIC RESPONSE

FCIC has already begun to implement this recommendation. The exclusion will apply to specific crops and land presently classified as high risk, i.e., land identified with a classification other than "Rxx" in the rate table. This approach is consistent with the concern expressed in the Commission's report.

ACTUARIAL OR COST IMPACT: None.

REGULATORY IMPACT: Implementation will require amending the General Crop Insurance Policy through the regulatory process and establishing an optional exclusion endorsement indicating producer awareness of the coverage waiver.

ADDITIONAL COMMENT: This option is appropriate for the limited purpose outlined in the Commission Report. Extension to other situations, marginally "risky" land (i.e., simply greater risk but within normal parameters), or requests to provide only high risk land protection, would be inconsistent with the general objective of crop insurance.

IMPLEMENTATION: This change to the General Crop Policy will require following the regulatory process. Therefore, the policy change will not be in place nor will the exclusion be available for crops having filing dates prior to approximately September 1, 1989. Development of the appropriate form is nearly complete and should pose no timing problem.

COMMISSION COMMENTS

The Commission urges the FCIC to expedite the implementation of this exclusion.

5. COMMISSION RECOMMENDATION

The Commission recommends that the FCIC expand the futures market-based price selection to other crops that are traded on futures markets. Beyond 1990, the FCIC should consider extension to other crops whose prices are closely correlated to a crop traded on the futures market.

FCIC RESPONSE

FCIC appreciates the advantages of market based price election options and will, on an experimental basis, extend its use to wheat for 1990. For the 1990 crop year FCIC proposes to further consider extension only to corn, in addition to wheat and soybeans. Expansion to other crops will occur as experience is gained and as appropriate market indicators are identified.

ACTUARIAL OR COST IMPACT: None

REGULATORY IMPACT: None. Establishment of price elections is an annual administrative action.

ADDITIONAL COMMENT: FCIC will continue to evaluate the soybean market price option, particularly the potential for unusual events to distort prices. A more representative sample of trading prices has been developed for soybeans and wheat for 1990 to avoid short term distortions. FCIC is concerned that this approach not raise expectations regarding the ability to react to price fluctuations after planting. This concern has special relevance for wheat since winter wheat experience often affects prices later in the year. A two-price mechanism would be unworkable and inequitable. Upon review, the decision on corn could be made part of the October 1 announcements.

IMPLEMENTATION: The announcement of price elections will take place according to the program announcement schedule for 1990. Trading series and announcement dates for the market-based prices will conform to sales schedules, but be no later than September 1, 1989, for wheat, and March 15, 1990, for soybeans.

COMMISSION COMMENTS

The Commission, in this report, is recommending that Congress enact legislation to authorize the FCIC to determine a maximum price election level based on several methods, one of which is a futures market-based price election level. Where appropriate, the Commission urges the FCIC to use the futures market-based price election level for establishing the maximum level.

6. COMMISSION RECOMMENDATION

The Commission recommends that the FCIC explore the use of special endorsements that would allow a share tenant or a landlord to insure, in one policy, all interests in the crop. The FCIC has agreed to determine whether this can be done for the 1990 crops. The Commission recognizes that it will be necessary for the FCIC to ensure that no double coverage occurs under this proposal if it is implemented.

FCIC RESPONSE

FCIC agrees that this approach has merit. Multiple interests should be insurable in a single policy. We propose to develop a simple endorsement stamp that could be in place for 1990, and will consider making the appropriate policy and form changes for future years.

ACTUARIAL OR COST IMPACT: None.

REGULATORY IMPACT: The procedural change for 1990 could be accomplished administratively without regulations. The longer term approach will require policy and forms changes to be cleared through the 120-day regulatory process.

ADDITIONAL COMMENT: This option is already available to producers in formal or informal partnerships or associations created for production. Current procedures, however, require the individual members of such partnerships or associations to sign the application for insurance. More emphasis on the use of this option might achieve the Commission's intent more efficiently than revising forms and procedures. The FCIC will, however, pursue alternatives to make this approach more readily available and to meet the Commission's early announcement goals for the 1990 crop year. FCIC will monitor any change in procedures closely to ensure that they do not lead to duplication of coverage and problems with sodbuster certification, premium payment, tax responsibilities, or tracking and privacy.

IMPLEMENTATION: FCIC will pursue a simple, stamped addendum to the application which will certify the signatory's authority to act on behalf of all interests in the crop. In addition, procedures will be developed to make the certifier, and any named share individuals, responsible for premium and any indemnities reported.

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FCIC will also develop appropriate procedures to assure sodbuster compliance for all certified interests.

7. COMMISSION RECOMMENDATION

The Commission recommends the establishment of local producer, industry, and FCIC committees for each crop or group of similar crops. These committees should provide a forum for the views and recommendations of producers and insurance industry representatives on the formulation of new programs, procedures, rate structure changes, and improvements for existing programs. The Commission believes this process should begin immediately.

FCIC RESPONSE

FCIC is willing to pursue this approach. More "grass roots" input is needed in the development of insurance programs; however, FCIC has no standing authority to establish local committees. The creation of such a large number of committees would be difficult under USDA's advisory committee procedures. FCIC has already planned to establish a national advisory committee to provide industry and producer input in technical areas (particularly product, marketing, actuarial and claims). In addition, we have developed, in consultation with the private sector, a Crop Policy Development Cycle (CPDC) which provides a formal framework for policy development and program expansion. This framework takes advantage of input from all segments of the industry and users. FCIC will continue to work with any industry group, producer group, or association on an informal, non-member, basis. We will also explore with FmHA the use of their local structures to provide an opportunity for additional producer input.

ACTUARIAL OR COST IMPACT: Assuming a 20-member committee and five meetings per year at $10,000 per meeting, the direct costs for a formal Advisory Committee would amount to $100,000 per year. There would be some offsetting savings from reduced travel and meeting expenses attending numerous "ad hoc" types of meeting that occur presently. Expenses might also be offset by the benefits of better program development leading to participation by lower risk producers.

REGULATORY IMPACT: Formal advisory committees require regulatory action and implementation rules which will be pursued through USDA channels.

ADDITIONAL COMMENT: FCIC will continue its close association with industry groups and encourage sharing of information informally with producers and industry. Significant additional benefits accrue to FCIC and the crop insurance program from such groups. It will take time to review and gain approval for the national advisory committee approach in view of government-wide limits on the funds available for such committees.

IMPLEMENTATION: The FCIC already meets, and is willing to meet with any group having an interest in the crop insurance program consistent with its financial and personnel resources.

COMMISSION COMMENTS

The Commission encourages the FCIC to put forth every effort to develop local committees to provide more input from the segment of the population most concerned with the continuance and improvement of the Federal crop insurance program, the producers and agents.

8. COMMISSION RECOMMENDATION

The Commission believes that a well-coordinated educational effort should be undertaken to better inform all producers, private industry personnel, FCIC and other relevant USDA personnel, and other interested parties, of the importance of crop insurance in risk management. This general educational program should be designed to increase information availability to a cross-section of agricultural interests. The planning and development of this effort should involve persons from the FCIC, other USDA agencies, such as the ASCS, Farmers Home Administration (FmHA), and Extension Service employees, and private insurance companies.

To improve product knowledge within the industry, the Commission recommends the development of an agent/appraiser training program to provide consistent information and service to producer participants. This program could be coordinated by the FCIC and the National Crop Insurance Services (NCIS).

FCIC RESPONSE

FCIC has already begun to implement this recommendation. We will expand the efforts of our Extension Service Task Force to develop and implement educational aids to better inform USDA personnel and to assist producers in considering crop insurance as a risk management strategy. We will work more extensively with industry partners to develop comprehensive training programs for agents and to service personnel trainers who can provide training and support to their individual companies.

ACTUARIAL OR COST IMPACT: No additional direct administrative cost will be involved. All costs will be absorbed by shifting workload within budgets.

REGULATORY IMPACT: None.

ADDITIONAL COMMENT: FCIC has historically attempted to provide information and training at the intergovernmental delivery system levels. We welcome the opportunity to formalize these efforts and will work with industry and other USDA agencies to develop appropriate programs. Care must be taken to avoid interfering with private company rights to employee training and oversight. In addition, the FCIC and USDA must develop guidelines to avoid confusion for producers when they visit agency offices regarding the nature of crop insurance and its relationship to other government programs.

IMPLEMENTATION: This proposal has been discussed with the Extension Service, and the provision of services will be formalized through our interagency agreement. Planning sessions will be held in the Summer of 1989 to prepare programs for fall-planted crop states for 1989 and for continued efforts through crop year 1990.

COMMISSION COMMENTS

The Commission wishes to stress the importance of providing clear and concise information to local personnel, agents, and producers, in order to improve the overall satisfaction of these participants in the Federal crop insurance program.

9. COMMISSION RECOMMENDATION

The Commission recommends that the FCIC implement a minimum commission or a set payment per policy to agents and companies to encourage sales in areas with small farms and low participation. Such a payment, or minimum commission, would ensure that the cost of servicing small farms would be covered.

FCIC RESPONSE

FCIC appreciates the concern over adequate compensation and has already initiated a study to develop appropriate adjustments in commissions to be implemented in contracts and agreements with the reinsured companies and sales and service contractors.

ACTUARIAL OR COST IMPACT: This recommendation would result in higher commissions paid to the delivery system. To the extent that many smaller but successful producers may be brought into the program, it is possible that increased costs may be moderated by greater actuarial stability.

REGULATORY IMPACT: Compensation rates are set administratively by FCIC in the agreements and contracts with the delivery system. No regulatory impact is involved.

ADDITIONAL COMMENT: An analysis of company expenses and the adequacy of agent commissions is being prepared for FCIC by Arthur Andersen and Company, a big eight accounting firm. The report is to include alternative methods of determining agent commissions. FCIC will implement recommendations from the study that are programmatically sound and consistent with the Commission's intent.

IMPLEMENTATION: Reimbursement and commission rates for the agreements for reinsured companies and sales and service contractors will be completed by July 1. The Arthur Andersen preliminary report should be available soon; however, it may not be possible to incorporate its finding into the 1990 agreements.

10. COMMISSION RECOMMENDATION

The Commission recommends that the FCIC provide additional financial incentives for agents and companies to increase participation in undeveloped markets.

FCIC RESPONSE

FCIC agrees to explore this direction. Our Marketing Task Force, composed of representatives of all segments of the industry, is considering several proposals to encourage more aggressive marketing. Incentives are also being addressed by the Arthur Andersen study.

ACTUARIAL OR COST IMPACT: This recommendation would result in higher commissions paid to the delivery system.

REGULATORY IMPACT: None. Administrative adjustments would be needed in the compensation rates in the reinsurance agreements and sales and service contracts.

ADDITIONAL COMMENT: While this approach has merit, insufficient information is currently available on which to establish company and agent remedies. The results of the Arthur Andersen study and the Marketing Task Force will help identify parameters. FCIC wants to aggressively pursue outreach to underdeveloped and underserved markets; however, some areas and markets may be beyond the reach of traditional marketing methods. Innovative approaches will be required.

IMPLEMENTATION: Changes in the reimbursement and commission rates to reflect this recommendation could not be implemented until the 1991 agreements.

11. COMMISSION RECOMMENDATION

The Commission recommends that, with respect to program crops, current loss adjustment procedures, requiring loss appraisers to perform final acreage measurement at the time of loss, be eliminated. Instead, use of ASCS acreage certification should be expanded to provide program crop producers the opportunity to certify acres only at ASCS acreage reporting time.

The Commission recommends that "settlement on appraisal" agreements be established to allow initial appraisals to be used for final claim settlement when the producer and the insurer agree to do so at the time of the initial appraisal.

The Commission recommends that a special industry task force be created to determine alternative methods of loss adjustment to provide for a more efficient use of manpower, time, and money. This task force, in investigating possibilities to streamline loss adjustment, should invite governmental participation in the search for innovative solutions.

FCIC RESPONSE

FCIC will emphasize current procedure requiring ASCS acreage certification for 1990. We will work with industry claims professionals in exploring the use of appraisals and certified production figures for loss adjustment and other simplification matters for the future. We propose to institutionalize this important industry input as part of our proposed national advisory committee structure.

ACTUARIAL OR COST IMPACT: None.

REGULATORY IMPACT: Settlement on appraisal would require a policy change and regulatory action. Establishment of the advisory committee would require Departmental clearance and regulations.

ADDITIONAL COMMENT: Loss adjustment procedures should be as simple and fair as possible. However, simplicity cannot be achieved at the cost of efficiency and accuracy which are demanded of the insurance concept. Producers generally (as do insureds in other lines) seek settlements in their favor. Providing an opportunity to get a favorable settlement invites repeated appraisals (with their attendant cost) or an expedient settlement by the loss adjuster (with its own costs, both financial and programmatic). These values must be carefully assessed in developing both opportunities for easy and convenient settlements for the producer, and accurate and procedurally sustainable settlements for the insurer.

IMPLEMENTATION: FCIC will explore these issues with a working group and include claims as part of its longer-term national advisory committee effort. We will carefully consider any recommendations developed for implementation at the earliest date possible.

COMMISSION COMMENTS

The Commission again urges the FCIC to adopt "settlement on appraisal" agreements. The requirement to harvest or destroy a crop after a catastrophic loss eliminates the choice of a producer, who is in the best position to weigh the advisability and economic feasibility of harvesting such a meager yield. The Commission, in this report, has expanded on this recommendation by making a further recommendation to allow final claims adjustment, on crops yielding less than 20 percent of the base yield, while providing producers the option to harvest the remainder of the crop without penalty.

12. COMMISSION RECOMMENDATION

The Commission recommends that the USDA coordinate all commodity program and Federal crop insurance dates to the maximum extent possible.

FCIC RESPONSE

FCIC agrees that more synchronization would benefit the producer. We have initiated a review process with ASCS (the principal agency with date sensitive activities) to determine the ability to achieve as much consistency as possible.

ACTUARIAL OR COST IMPACT: None.

REGULATORY IMPACT: Some dates may require change; however, it appears that most actions would fall within the discretion of the FCIC and would not require regulatory actions.

ADDITIONAL COMMENT: ASCS has already conformed to most of the dates that are important for insurance purposes, most notably planting dates. Some dates involving similar reports of information, such as FCIC's acreage reporting dates and ASCS' acreage certification dates, serve different purposes and would be more difficult to synchronize because of their often competing objectives; however, FCIC will work with ASCS to encourage accommodation where possible. The FCIC will particularly focus on the opportunity to standardize the forms used for reporting acreage for the two programs.

IMPLEMENTATION: FCIC has initiated discussions with ASCS. As areas of accommodation are identified and adjustments can be made, action will be taken. In many cases, it is likely that action would be the responsibility of ASCS, not FCIC.

COMMISSION COMMENTS

The Commission again urges the FCIC and the ASCS to work together to eliminate the confusion and duplicity inherent in the current reporting dates. In addition, in this report, the Commission is recommending that the FCIC review, and revise as necessary, all final planting dates and, in all policies for annual commodities, allow an automatic extension of up to 10 days, with a 1 percent per day decrease in the guarantee.

13. COMMISSION RECOMMENDATION

The Commission recommends that the duplication of effort and the timing problems be eliminated by simply requiring the producer to sign a statement, for crop insurance purposes, certifying that the producer is in compliance with the conservation provisions of the Food Security Act of 1985 or will be in compliance by a date certain or forfeit all rights to payment of indemnities under the policy.

FCIC RESPONSE

FCIC will pursue simplification of the compliance process as aggressively as possible for 1990 and beyond.

ACTUARIAL OR COST IMPACT: None.

REGULATORY IMPACT: Filing of the certificate is currently required by 7 CFR 400.49.

ADDITIONAL COMMENT: Recent conservation compliance requirements led to an emphasis on assuring certification. In view of the 1990 requirement for compliance, and the number of agencies providing benefits to producers which may be impacted by the lack of compliance, USDA is developing a new and better coordinated interagency approach. FCIC will aggressively encourage self-certification with verification at loss adjustment as a solution for the crop insurance program.

IMPLEMENTATION: Coordination with the responsible USDA offices is underway. FCIC will aggressively pursue its commitment to the Commission. The previously noted schedule for regulatory changes is operative.

COMMISSION COMMENTS

The Commission encourages the Secretary of Agriculture to provide all assistance possible in simplifying the compliance process.

14. COMMISSION RECOMMENDATION

The Commission recommends that policies, forms, rates, and procedures remain the same for the 1990 crop year with the exception of the changes identified in Commission reports (and those currently contemplated by the FCIC). [Note: A list of those changes contemplated by the FCIC may be found in Appendix A of the interim report.] In addition, the FCIC should minimize changes in current procedures required of the reinsured companies and master marketers so as not to dilute the delivery systems' ability to meet the needs of the producers.

FCIC RESPONSE

FCIC accepts the need for coordinated change and is pursuing this approach. Secretary of Agriculture Yeutter has noted that "Improving the program to stay within realistic budgetary constraints may require program changes, including premium rate increases and yield coverage adjustments." FCIC also reserves the right to respond to unanticipated demands from various constituencies that might not be foreseen by the Commission.

ACTUARIAL OR COST IMPACT: None.

REGULATORY IMPACT: Some actions proposed by the Commission (or by FCIC) may require regulatory action. Our ability to achieve all of the regulatory filings and meet the Commission's "early filing" suggestion, presents a major challenge given time constraints. Every effort will be made to meet deadlines, but some actions may require prioritization, and some may have to be postponed.

ADDITIONAL COMMENT: The FCIC earnestly wishes to minimize in-year changes and welcomes the Commission's support in this regard. The continuation of orderly change and development is essential to program integrity and participation goals.

IMPLEMENTATION: Any changes in program, policy, forms, rates, and procedures will be accomplished according to the appropriate administrative or regulatory process. We will adhere to existing schedules for such changes wherever possible.

COMMISSION COMMENTS

The Commission reaffirms the importance in limiting changes in policies, forms, rates, and procedures to those changes representing coordinated efforts to improve the Federal crop insurance program.

15. COMMISSION RECOMMENDATION

The Commission believes the FCIC should be required to have all rates, rules, policy changes, and forms in place for the entire upcoming crop year, both fall and spring planted crops, by an early date. The actuarial material should be available to companies by June 1 so that they may begin training and complete modifications in company systems that use this material. All material should be distributed to agents by July 1.

FCIC RESPONSE

FCIC agrees and has already established this direction. We intend to have our program and materials in place as early as orderly processing will permit, not later than July 1, 1989, for fall-planted 1990 crops.

ACTUARIAL OR COST IMPACT: No additional direct administrative costs will be involved.

REGULATORY IMPACT: All filings are currently administrative actions not requiring regulatory review.

ADDITIONAL COMMENT: FCIC is concerned about the Commission's request to meet the July 1, 1989, deadline for crops planted in Spring 1990, and for crops for which information is normally developed later in the crop year. To achieve both early and orderly development, FCIC proposes to make all program announcements for fall-planted 1989 crops by July 1, 1989, and all other announcements (except in a few situations) not later than October 1, 1989. FCIC met these announcement dates for 1988. This approach meets the spirit of the Commission's recommendation and permits more orderly program development and more efficient distribution of program materials by FCIC and industry. This will ensure that program rules, such as yield determinations and unit consolidation discounts, will be consistent.

IMPLEMENTATION: FCIC expects that program and administrative announcements for fall-planted 1990 crops will be made by July 1, 1989, and all other announcements except those for crops with unique status or for price elections timed to market dates, will be made by October 1, 1989, for the 1990 crop year.

COMMISSION COMMENTS

While understanding the necessity for a delay in program announcements for the 1990 spring-planted crops, considering the time constraints faced by both the FCIC and the Commission, the Commission urges the FCIC to streamline this process and implement the Commission's April recommendation for the 1991 crop year.

16. COMMISSION RECOMMENDATION

The Commission recommends that once a producer selects a price selection level, whether it be the high, middle, or low selection, the selected level should automatically be retained, regardless of FCIC adjustments in the specific prices, until the farmer voluntarily elects to adjust the price selection to a new level.

FCIC RESPONSE

FCIC has already begun to implement this recommendation. We will have this change in place for the 1990 crop year.

ACTUARIAL OR COST IMPACT: None.

REGULATORY IMPACT: Changes can be accommodated administratively for 1990 for the vast majority of crops; however, citrus and forage seeding, with early sales closing dates, will not be included for 1990.

ADDITIONAL COMMENT: Administrative devices will be used to achieve the objective through the imposition of the high price election for 1990 whenever necessary. In the future, to provide a broader range of price elections, other devices may be developed and included in the implementation of the single policy initiative. The present practices used for cranberries and macadamia nuts may be expanded with modifications for all crops.

IMPLEMENTATION: The regulatory process will be pursued for implementation of the single policy for the 1991 crop year. The administrative changes for 1990 are underway.

17. COMMISSION RECOMMENDATION

The Commission recommends the implementation of meaningful administrative tolerances to eliminate categorizing insignificant differences as errors. Consideration should be given to a system of dividing decisions into judgmental and nonjudgmental categories. Under such a system, which could closely parallel that for adjusters under the National Flood Insurance Program, a decision would generally be accepted in judgmental matters regarding differences of opinion between professionals. Nonjudgmental matters involving inadvertent error would be subject to the current tolerance levels, and the private company would be responsible for rectifying the error as soon as possible after discovery.

FCIC RESPONSE

FCIC has already begun to implement this recommendation. We have established claims adjustments tolerances for piloting in the current (1989) crop year.

ACTUARIAL OR COST IMPACT: Tolerances formally recognize certain levels of inaccuracy in settlement of claims. There will likely be a negligible increase in claims costs that should be more than offset by administrative savings from not pursuing negligible differences in claims amounts.

REGULATORY IMPACT: None. The tolerance policy is an administrative and procedural action.

ADDITIONAL COMMENT: The FCIC has carefully considered the tolerances which were announced and will continually review the policy to assure both its integrity and its responsiveness to business reality. As with other program and procedural activities, changes will be effected, if necessary, at the appropriate times and consistent with orderly processes.

IMPLEMENTATION: The establishment of an administrative tolerance procedure for crop insurance practices was announced on April 14, 1989.

18. COMMISSION RECOMMENDATION

The Commission recommends that the FCIC initiate an impartial review process for proposed rate and rules changes. The review process should ensure that each rate and rule change is carefully evaluated and analyzed as to the potential effect on the actuarial soundness of the program, efficiency of administration, and producer participation in the program. To this end, the process should include consultations with producer and industry representatives.

FCIC RESPONSE

FCIC has already begun to implement this recommendation. We have established a Crop Program Development Cycle (CPDC) for the orderly development of major policy changes in the insurance program, particularly crop and program expansion. We are developing an orderly review process for program actions which fall outside those directly assigned to the CPDC. The proposed national crop insurance advisory committee would be a further vehicle for review.

ACTUARIAL OR COST IMPACT: None.

REGULATORY IMPACT: None for the CPDC, except that the process formalizes within the appropriate regulatory timeframes the actions necessary to achieve program objectives. The advisory committee will require Departmental clearance and regulatory action.

ADDITIONAL COMMENT: THE CPDC does not directly include rating and administrative actions; however, FCIC has established a formal policy concurrence process to ensure coordination with the private sector prior to policy or procedural action. FCIC will formalize this process as part of the CPDC; however, some actions are time sensitive and may not lend themselves to established timeframes. The process of consultation with affected and interested parties will be protected as much as possible.

IMPLEMENTATION: THE CPDC is operating presently. The pursuit of more formal, and legally permissible, alternatives will follow creation of the advisory committee.

19. COMMISSION RECOMMENDATION

The Commission recommends the establishment of a joint review committee involving appropriate FCIC, master marketer, and reinsured company personnel. This joint committee would be charged with clarifying and unifying current policies and procedures to the maximum extent practicable. While the Commission is aware that the FCIC is considering such a process, correction of differences in procedures and policies must be accelerated.

FCIC RESPONSE

FCIC agrees and created such a working group in 1988.

ACTUARIAL OR COST IMPACT: None.

REGULATORY IMPACT: None.

ADDITIONAL COMMENT: The FCIC-NCIS "Single Policy" working group is developing common policies and procedures to be used by both delivery systems. This will eliminate minor differences and misunderstandings and, together with better training, assure ongoing consistency in policy and procedural operations.

IMPLEMENTATION: The working group is underway. Implementation of the single policy is planned for the 1991 crop year and will require the 120-day regulatory process.

20. COMMISSION RECOMMENDATION

The Commission recommends the establishment of a review board of appropriate FCIC, reinsured company, and master marketer personnel for the settlement of disputes between the FCIC and reinsured companies and master marketers arising from the handling of specific producer cases. The purpose of this board would be to provide a timely ruling on the reasonableness of the insurer's original determination, based on the circumstances. Such an approach would minimize the frustration producers now experience while saving the FCIC and delivery systems time and expense.

To eliminate any conflict of interest, insurance representatives would excuse themselves from review board deliberations when they or their companies are involved in the dispute.

FCIC RESPONSE

FCIC disagrees with this recommendation. While we recognize the attractiveness of impartiality, this recommendation does not really achieve that goal and might compromise FCIC's responsibility and accountability for program oversight. FCIC currently provides an appeal process and is in the process of reviewing and refining this program.

ACTUARIAL OR COST IMPACT: None.

REGULATORY IMPACT: None.

ADDITIONAL COMMENT: FCIC has two appeal avenues: (1) the internal appeal process for master marketer policy disputes and for disputes of reinsured company policies which allege FCIC responsibility for error; and (2) under the reinsurance agreement, reinsured companies may appeal to the Manager on disputed claims and for arbitration of disputes. Policyholders with reinsured companies may appeal to state agencies that regulate the industry and resolve such disputes.

IMPLEMENTATION: None.

COMMISSION COMMENTS

The purpose of this recommendation is to provide a more equitable and timely solution to disputes arising in the settlement of producer claims. The Commission is disappointed by the FCIC's lack of responsiveness on this issue, and has made a further recommendation, in this report, that Congress enact legislation to require the establishment of an independent appeals system to review adverse determinations of the FCIC.

21. COMMISSION RECOMMENDATION

The Commission recommends that the FCIC employ account executives to work closely with the reinsured companies and master marketers. These account executives should be available on a daily basis to provide necessary advice and direction. In addition, they also should provide continuous oversight of the reinsured companies and master marketers, who will benefit both from the on-going performance assessments and timely FCIC intervention in the event of problems.

FCIC RESPONSE

FCIC agrees and has already established such a function within the Office of Program Administration.

ACTUARIAL OR COST IMPACT: FCIC will staff this function by reallocating within existing personnel and budget ceilings. Some long-term savings might be expected through improvements in fidelity to procedure, a lessening of dispute costs, and greater compliance in program operations.

REGULATORY IMPACT: None.

ADDITIONAL COMMENT: Recruitment of account executive personnel is underway. The range of experience and talent necessary to properly respond to the demands of the position require careful recruitment and training. We anticipate that the first new staff will be in place during the last quarter of fiscal year 1989.

IMPLEMENTATION: The positions have been established. Further implementation, including training and pilot review procedures, will be pursued during the 1990 crop year.

22. COMMISSION RECOMMENDATION

The Commission believes that the FCIC should work with delivery organizations on an on-going basis and issue periodic performance reports with timely suggestions for operational improvements. The FCIC should establish such a periodic performance rating system as soon as possible. Regular reviews of company performance offer dual benefits: they will be a preventive measure, catching problems before they become severe, and they will enhance the program's image by putting the few problem companies in context rather than reflecting on the industry as a whole.

The Commission further recommends that the account executives, discussed previously in this report, be used in evaluating company operations and functions and in informing the companies of the review results. The account executives should also identify the companies' strengths and weaknesses and recommend improvements.

FCIC RESPONSE

FCIC has already begun to implement this recommendation. We will combine increased definition of procedural and operational standards (as suggested in another recommendation of the Commission) with the account executive function to achieve this objective.

ACTUARIAL AND COST IMPACT: None.

REGULATORY IMPACT: None. Performance elements will be implemented administratively.

ADDITIONAL COMMENT: Review methods, frequency, and interaction of the account executive and the company in resolving discrepancies, and the nature of the reporting process will be developed, with appropriate input from the private sector.

IMPLEMENTATION: Standards and procedures are ready for use, on a pilot basis, in 1990. In 1991 they will be incorporated in the agreements and contracts with the delivery systems. They will continue to be refined and used more assertively as the basis for assessing contractor and company performance.

23. COMMISSION RECOMMENDATION

The Commission recommends that the FCIC, as soon as possible, work with industry representatives to develop jointly agreed upon standards of performance for both reinsured companies and master marketers. The particular standards should be properly field tested before they are implemented on a permanent basis.

FCIC RESPONSE

FCIC concurs and is in the process of developing proposals for trial implementation, along with the performance rating system and the account executive function, for crop year 1990.

ACTUARIAL OR COST IMPACT: None.

REGULATORY IMPACT: None. Standards will be implemented administratively as part of the agreements or contracts with the delivery system.

ADDITIONAL COMMENTS: In 1988, FCIC began to develop performance standards that would be binding and enforceable under government agreements and contracts with the private sector. Formalization of those elements, and the process for determining fidelity to them, is a logical extension of that process. We welcome the Commission's and industry's support. The development of the standards will be an interactive process. They will be piloted during the first year to assure procedural soundness and fairness before being incorporated into contracts in 1991.

IMPLEMENTATION: The FCIC proposes to have pilot standards in place for crop year 1990, and for assessment in the performance of the account executive function. Such standards will be developed in the refinement of the July 1, 1989, agreements.

24. COMMISSION RECOMMENDATION

To improve the service to farmers, the Commission recommends that the FCIC develop a system of expense reimbursement that rewards excellence in performance.

FCIC RESPONSE

FCIC has this approach under study by Arthur Andersen. Implementation will require evaluation of the performance standards and review recommendations and cost factors.

ACTUARIAL OR COST IMPACT: None.

REGULATORY IMPACT: None.

ADDITIONAL COMMENT: FCIC sees some validity in this approach. Program integrity problems, and the fact that solutions are only now being implemented, make application of this recommendation difficult at this time. While financial incentives for excellence in performance can be a valuable tool, it is important to establish baseline performance levels and to establish sound operational modes first. FCIC proposes to continue to explore with industry the opportunities for creative approaches to respond to expressed concerns over program integrity and the use of incentives for performance above normal standards.

IMPLEMENTATION: None, at this time.

25. COMMISSION RECOMMENDATION

The Commission recommends that the FCIC work with reinsured companies to add appropriate cautionary language to policies regarding the effect of producers intentionally supplying false information to a company, and that the Department of Agriculture establish procedures for referring such cases to the Department of Justice for possible criminal or civil fraud action.

The Commission also recommends that the FCIC develop language that might be used in all policies to assess liquidated damages against producers for supplying erroneous data that is inaccurate beyond specified tolerances and that can be shown to have been submitted in reckless disregard for truth and accuracy.

FCIC RESPONSE

FCIC concurs with the concept of providing civil and criminal penalties; however, implementation will require significant legal review and development. Industry providers already have the opportunity to certify to FCIC allegations of impropriety and have FCIC pursue such matters with the Office of the Inspector General. FCIC will provide a formal referral and tracking mechanism for such situations.

ACTUARIAL OR COST IMPACT: None.

REGULATORY IMPACT: May be substantial; however, no measure is predictable until concepts are approved by counsel.

ADDITIONAL COMMENTS: The FCIC will work with the study groups suggested in other Commission recommendations to determine areas where this proposal might be effectively put forward, and to make suggestions for legal counsel's consideration. In pursuit of fraud and abuse the Office of the Inspector General (OIG) determines the gravity of matter and investigates, substantiates, and then the U.S. Attorney's Office of jurisdiction determines whether to take legal action. FCIC currently has no statutory authority for the use of administrative procedures and direct legal recourse is limited substantially.

IMPLEMENTATION: The FCIC will work with industry to develop a procedure for certification of allegations of impropriety, and for the forwarding of such allegations to OIG. Such procedures should be in place by Fall, 1989.

COMMISSION COMMENTS

The Commission urges the FCIC to address the recommendation to develop cautionary language that could be used in all policies and to assess liquidated damages against producers intentionally supplying erroneous information. The Commission believes the current statutory authority is sufficient for this purpose and urges the FCIC to begin implementation immediately. In addition, in this report, the Commission reaffirms the importance of these recommendations. The Commission also, in this report, urges the enactment of legislation to provide for the imposition of civil penalties for producers who intentionally submit incorrect data or information.

HEARINGS AND MEETINGS OF THE COMMISSION

The Commission had its organizational meeting in Washington, D.C., on December 19, 1988. At the meeting, the Co-Chairmen of the Commission were elected in accordance with the provisions of the Act establishing the Commission, with Raymond L. Davis of Potter, Nebraska, representing the interests of producers, and M. K. (Mike) Felt of Kalispell, Montana, representing the interests of the crop insurance industry.

The Commission has held seven additional meetings: one in Kansas City, Missouri (January 9, 1989); one in Orlando, Florida (February 24–25, 1989); and five in Washington, D.C. (February 1–2, March 28–29, April 26–27, June 14–15, and July 6–7, 1989).

The Commission has established three committees to examine the matters called for under the Federal Crop Insurance Commission Act of 1988. The three committees are the Low Participation and Special Problems Committee, co-chaired by John C. Kintzle and Ernest Ross; the Price/Product Committee, co-chaired by James Deal and Terry Miller; and the Program Administration Committee, co-chaired by Doyle Rahjes and Richard Gibson.

During March 1989, the Commission conducted 10 public hearings in the following locations: Lubbock, Texas (33 witnesses); Tifton, Georgia (32 witnesses); Raleigh, North Carolina (21 witnesses); Memphis, Tennessee (16 witnesses); Denver, Colorado (18 witnesses); Salina, Kansas (23 witnesses); Bloomington, Illinois (34 witnesses); Council Bluffs, Iowa (25 witnesses); Harrisburg, Pennsylvania (26 witnesses); and Baton Rouge, Louisiana (8 witnesses). Four additional hearings were held in April 1989: Fargo, North Dakota (63 witnesses); Fresno, California (33 witnesses); Spokane, Washington (19 witnesses); and Great Falls, Montana (27 witnesses). A total of 378 witnesses participated in the hearing process.

At its meeting in Washington, D.C., on March 28–29, 1989, the Commission drafted an interim report, basing its work, in large part, on reports it received from its three committees and on the testimony received by the Commission from farmers, insurers, lenders, and other interested persons at public hearings.

The Commission meetings in April, June, and July were for the purpose of drafting the Commission's principal report as well as to assess the status of the implementation of the recommendations contained in the April interim report. The Commission based its work, in large part, on reports it received from its three committees and on the testimony received by the Commission at public hearings. Witnesses at the public hearings testified on issues ranging from coverage to general program management, but providing adequate coverage at a reasonable cost to producers was the topic that received the most attention. Producers, lenders, and agents repeatedly stated that better coverage was a key to increased program participation.

A large number of those presenting testimony said there was a need to provide coverage at a level sufficient to cover the cost of producing each commodity. For obvious reasons, producers have an interest in being able to insure their investment at a reasonable cost. Agents suggested that marketing a product that covers the costs of production would be an easier and more attractive package to sell. Lenders were especially interested in coverage of the costs of production, so that their loans can be repaid. A variety of ways to achieve coverage for the costs of production was suggested.

Also receiving attention was the need to simplify yield calculations for determining the production guarantee, with the calculations not overly penalizing producers whose yields are low due to disaster years. In addition, witnesses stressed the need to have an approved yield plan that is equitable to "new" producers, that is, producers entering the program for the first time, and producers without 10 years of yield records. At the same time, witnesses also were supportive of permitting producers with higher than average yields to prove their yields and thereby qualify for a higher production guarantee. It was noted that simplifying yield determinations could allow an agent to quote policies on the spot as well as encourage a better understanding of the program.

The need to provide insurance on an equitable basis was repeatedly stressed as a means of attracting new producers into the program and addressing the problem of adjoining counties having extreme differences in premium rates for the same coverage. Witnesses also expressed the need to provide separate units and separate rates for irrigated and nonirrigated lands.

The timeliness of setting dates for everything from the beginning of the insurance sales period and the establishment of price election levels to policy cancellation was mentioned. It was suggested repeatedly that the Federal crop insurance program should set dates to coincide with other government farm programs. In particular, the Federal crop insurance program dates should coincide with Agricultural Stabilization and Conservation Service program dates.

Overall, if the Federal crop insurance program is to be promoted as the tool to minimize the need for other forms of disaster assistance, coverage must be improved, the program must be expanded, and the delivery of Federal crop insurance must be made more uniform and equitable, witnesses stated.

The transcripts of the hearings are available for inspection at the Commission's office.

APPENDIX A

COMPOSITION OF THE COMMISSION; BIOGRAPHIES OF MEMBERS

The membership of the Commission is specified under section 4 of the Federal Crop Insurance Commission Act of 1988 (Public Law 100-546). The Commission is to be composed of 25 members, 21 voting and 4 nonvoting members.

The four nonvoting members are the Chairman and ranking minority member (or their designees) of the Committee on Agriculture of the House of Representatives and the Chairman and ranking minority member (or their designees) of the Committee on Agriculture, Nutrition, and Forestry of the Senate.

The Manager of the FCIC is an ex officio member of the Commission.

The 20 remaining members of the Commission are appointed by the Secretary of Agriculture, taking into consideration the nominations submitted by the companies, organizations, and associations required to be represented on the Commission.

The 21 voting members of the Commission are listed below (with a brief description of the specific provision of the law under which they were appointed). The Act specifies that the Commission consist of:

1 individual representing the largest national association of wheat producers—Raymond L. Davis;

1 individual representing the largest national association of corn producers—John C. Kintzle;

1 individual representing the largest national association of cotton producers—Myrl D. Mitch;

1 individual representing the largest national association of soybean producers—Franklin T. Johnson;

3 individuals representing the 3 largest national general farm organizations—Thomas Giessel, Terry O. Miller, and Doyle D. Rahjes;

3 individuals representing producers of fruits, vegetables, specialty crops, and other crops not already specified—Richard Garabedian, John G. Laurie, and James Vincent;

4 individuals representing the reinsured companies that wrote the largest dollar volume of federally reinsured crop insurance during 1987—Willard D. Classen, James D. Deal, M. K. "Mike" Felt, and Richard C. Gibson;

2 individuals representing smaller reinsured companies, 1 person of whom must represent a company whose primary business is writing crop insurance for hail losses—Ernest L. Ross and Richard A. Bill, representing a company whose primary business is hail insurance;

2 individuals representing the two largest companies selling non-reinsured Federal crop insurance—Stanley L. Stephenson and George F. Vohs;

2 individuals representing national organizations of insurance agents—Robert E. Fulwider and Donald E. Suhr; and

the Manager of the Federal Crop Insurance Corporation—John Marshall.

The Act also requires the election of co-chairmen, one representing the agricultural producers and one representing the insurance industry. Raymond L. Davis represents the producers and M. K. "Mike" Felt represents the insurance industry as co-chairmen.

The following is a brief biographical sketch of each member of the Commission.

Richard A. Bill is an actuary for Country Mutual Insurance Company and chairman of the Crop Insurance Research Board Reinsurance Task Force. He also served on the joint FCIC and Crop Hail Insurance Actuarial Improvement Coordinating Committee. He is a past president of Midwest Actuarial Forum, served on the Grace Commission, and was a member of the Task Force on Farm Income Protection Insurance. Mr. Bill is a Fellow of the Casualty Actuarial Society. He is a graduate of Illinois State University and resides in Bloomington, Illinois.

Willard D. Classen is president of Rain and Hail Insurance Service, Inc., a crop insurance managing general agency for Cigna Corporation Companies, State Farm Property and Casualty Insurance Company, and National Farmers Union Insurance Companies. He is also president of Agri General Insurance Services, Inc., and Agri General Insurance Company. Mr. Classen is a past president of the National Crop Insurance Services and presently vice chairman of the American Association of Crop Insurers (of which he has also served in the capacity of chairman). He is a graduate of the University of Nebraska, and resides in Des Moines, Iowa.

Raymond L. Davis is a farmer of dryland wheat, dry beans, and millet. He currently serves as chairman of the Crop Insurance Committee of the Nebraska Wheat Growers and the National Association of Wheat Growers. He has been president of the Nebraska Wheat Growers, the National Association of Wheat Growers, and the Wheat Industry Council. He has also served as chairman of the Nebraska Wheat Board, Great Plains Wheat, and has served on the board of U.S. Wheat Associates, Inc. Mr. Davis has been a supervisor for the FCIC and adjusted crops for both the FCIC and reinsured companies. He resides in Potter, Nebraska.

James D. Deal is currently president of National Ag Underwriters, Inc., and has 30 years of crop insurance experience. He has served as the Manager of the Federal Crop Insurance Corporation, as the managing general agent for Empire Fire and Marine Insurance Company, and was instrumental in organizing the National Association of Crop Insurance Agents. He resides in Anoka, Minnesota.

E (Kika) de la Garza is currently the Chairman of the Committee on Agriculture of the House of Representatives. He was first elected to the House of Representatives in 1964 and prior to that he was a practicing attorney and served six terms in the Texas House of Representatives. He has served on various other committees of the House of Representatives including the Committee on Merchant Marine and Fisheries, the Select Committee on Narcotics Abuse and Control, and the Democratic Steering and Policy Committee. Mr. de la Garza is a graduate of St. Mary's University, where he also received his LL.B. and J.D. degrees from the law school. He has received many honorary degrees and awards, including Mexico's Order of the Aztec Eagle, Israel's Volcani Center lifetime achievement award, and Mr. South Texas. His home is Mission, Texas.

M. K. "Mike" Felt is president and chief operating officer of Crop Hail Management, a company he formed in 1964. He also formed and is president of Mountain States Insurance Company, a property/casualty insurance company. He served as the first president of the American Association of Crop Insurers and is currently vice-chairman in charge of governmental affairs. Mr. Felt is a past chairman of the Crop Hail Insurance Actuarial Association, and served on the Task Force on Farm Income Protection Insurance. He is a member of the International Association of Hail Insurers, Farm Foundation Roundtable, and the Montana Ambassadors. He resides in Bigfork, Montana.

Robert E. Fulwider is vice president and agency director of the Ray Wuestenberg Agency, Inc., and vice president of the Fulwider Agency, Inc. He holds a B.S. degree in agriculture from Iowa State University and an M.S. degree in education. He currently serves on the executive committee of the Independent Insurance Agents of Iowa. He has received the Independent Insurance Agents of Iowa's "Mr. Chairman" award and the "Agent of the Year" award. Mr. Fulwider is a past chairman of the Farm Agri Business Committee of the Independent Insurance Agents of America and received a Presidential Citation in 1987. He resides in West Liberty, Iowa.

Richard Garabedian is a raisin grower and is chairman of the Raisin Administrative Committee that manages the Federal marketing order for raisins. He is a past president of the Raisin Bargaining Association (1986–88) and is still a member of the Raisin Bargaining Association Board. Mr. Garabedian was a founding member of the Raisin Bargaining Association and has been a member of many groups promoting raisins. He resides in Fowler, California.

Richard C. Gibson currently is president of American Agrisurance and American Agrijusters, and executive vice president of Redland Insurance Company and Homestead Insurance Company. He also serves as chairman of the board of the American Association of Crop Insurers, and is a member of the board of the National Crop Insurance Services. Before he became involved in the insurance industry, Mr. Gibson was a full time school teacher. He holds a bachelor's degree from Doane College in Crete, Nebraska, and resides in Council Bluffs, Iowa.

Thomas Giessel is an active farmer of wheat and feed grains and has a cow-calf operation. He has been the vice president of the Kansas Farmers Union since 1983. He is also a member of the National Farmers Union. Mr. Giessel holds a B.S. in geology from Ft. Hays State in Hays, Kansas, and resides in Larned, Kansas.

Franklin T. "Ted" Johnson is an active farmer of soybeans, cotton, wheat, feed grains, cattle, hogs, and sheep. He is vice president, a member of the board of directors, and a member of the executive committee of the American Soybean Association. He also serves on the government relations committee of the American Soybean Association. Mr. Johnson is president of the United States Border Collie Handlers Association. He is a past president of the Alabama Soybean Association, the Macon County Cattlemen's Association, and the Macon County Farmers Federation. He resides in Shorter, Alabama.

John C. Kintzle is a member of the board of directors and serves as vice president of the government relations committee of the National Corn Growers Association. He has farmed corn and soybeans for 22 years. He is an active member of the Iowa Corn Growers, the Iowa Soybean Association, and the Iowa Farm Bureau. Mr. Kintzle is the past president of the Iowa Corn Growers, and resides in Coggon, Iowa.

John G. Laurie is an active partner in a family farm in mid-Michigan that produces specialty crops, sugar beets, and dry edible beans. He has served for 3 years as president of the Michigan Farm Bureau. He resides in Lansing, Michigan.

Patrick J. Leahy is currently the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate. He also is Chairman of the Appropriations Subcommittee on Foreign Operations and the Judiciary Subcommittee on Technology and the Law. He was first elected to the Senate in 1974 and prior to that served as the state's attorney in Chittenden County, Vermont. He graduated from Saint Michael's College and Georgetown University Law Center. Mr. Leahy has received many awards during the last 14 years for his efforts on rural health and development, nutrition, First Amendment rights, consumer support, and environmental protection. He is a native of Burlington, Vermont.

Richard G. Lugar is currently the ranking minority member of the Committee on Agriculture, Nutrition, and Forestry of the Senate and is the former Chairman of the Senate Foreign Relations Committee. He was first elected to the Senate in 1976 and prior to that served two terms as Mayor of Indianapolis. Mr. Lugar is a graduate of Denison University, was a Rhodes Scholar at Pembroke College, Oxford University, served in the U.S. Navy, and continues to own and manage a farm in Marion County, Indiana. He is a native of Indianapolis, Indiana.

Edward R. Madigan is currently the ranking minority member of the Committee on Agriculture of the House of Representatives, and also serves as the ranking minority member on the Subcommittee on Health and Environment of the Committee on Energy and Commerce. He was first elected to Congress in 1972, and prior to that he served two terms in the Illinois House of Representatives. Mr. Madigan has been awarded honorary degrees from Lincoln College, James Millikin University, and Illinois Wesleyan University. He is a native of Lincoln, Illinois, where he graduated from Lincoln College.

John Marshall is currently the Manager of the Federal Crop Insurance Corporation. Prior to assuming his current position, he was the Deputy Administrator, Management, of USDA's Agricultural Stabilization and Conservation Service. Earlier, he served in the Executive Office of the President, Office of Management and Budget, and the U.S. Department of Education. Prior to joining the administration in 1982, Mr. Marshall was a management consultant with Booz, Allen & Hamilton, Inc. He has taken both his B.A. and M.B.A. degrees from the University of Virginia. He resides in Arlington, Virginia, where he is active in numerous community organizations.

Terry O. Miller has been a farmer and rancher since 1948, and is currently vice president of the Colorado State Grange, and special projects coordinator of the Grange Insurance Association. He also is the president of the Colorado State Grange Credit Union. Mr. Miller has served as secretary-treasurer of the Grange Mutual Fire Insurance Company and as the regional marketing manager of the Grange Insurance Association in Denver. He resides in Broomfield, Colorado.

Myrl D. Mitchell is a cotton producer and is also a partner and manager of the Four Way Gin Company. He is the district director of the Texas Cotton Ginners' Association; Martin County, Texas, director of the Plains Cotton Growers; and serves as a producer delegate to the National Cotton Council. Mr. Mitchell has also served as president and vice president of the Plains Cotton Growers. He resides in Lenorah, Texas.

Doyle D. Rahjes is president of the Kansas Farm Bureau and an active farmer. He produces wheat, feed grains, beef cattle, and hogs. He is a member of the board of the American Farm Bureau. He resides in Agra, Kansas.

Ernest L. Ross is president of E. L. Ross, Inc., and is a member of the board of the American Association of Crop Insurers. He also serves on the board of directors of the National Crop Insurance Services. He resides in Enfield, North Carolina.

Stanley L. Stephenson is currently president of the National Association of Crop Insurance Agents and previously served as vice president of the association for 3 years. He has 27 years experience in the insurance industry and was president of the Minnesota Agents Association for 11 years. He resides in Austin, Minnesota.

Donald E. Suhr is president of the Suhr and Imig Insurance Agency, Inc., a large rural agency dealing in farm and crop insurance. He has been involved in the insurance industry since 1962. Mr. Suhr was president of the Nebraska Professional Insurance Agents from 1979–80, and currently serves as national director of the Professional Insurance Agents for Nebraska. He has also served as national Professional Insurance Agents crops representative since 1983. He resides in Seward, Nebraska.

James L. Vincent is president of L-Brooke Farms, Inc., which produces sweet corn, peas, red beets, corn, wheat, and alfalfa. He is chairman of the board of the Western New York Agricultural Credit Association. He resides in Byron, New York.

George F. Vohs is president and chief executive officer of the Longview Crop Insurance Agency which is the second largest sales and service contractor with the FCIC. He also worked for the FCIC in sales and marketing for 20 years, was managing editor of a daily newspaper, and served in various newspaper capacities prior to that. Mr. Vohs has held membership in various press and civic organizations. He holds a bachelor's degree in technical journalism from Kansas State University and a master's degree in mass communication from the University of Iowa. He resides in Greeley, Colorado.

APPENDIX B

ALTERNATIVE PROPOSAL FOR NEW PROGRAM

The current program operated by the Federal Crop Insurance Corporation (FCIC) has failed to meet the original intent of the Federal Crop Insurance Act of 1980. The program was supposed to be actuarially sound, replace the need for disaster assistance, develop a reserve for unforeseen losses, and involve the private industry to the maximum extent possible. In actuality, the opposite has occurred. The loss ratio has continued to deteriorate, Congress has approved several disaster assistance bills, and currently the FCIC is making plans to shift emphasis back to Federal paper via the 1990 Reinsurance Contract. The biggest disappointment, however has been the failure to gain participation in the program. In spite of expanding the programs to several new crops and basically to all locations, the majority of America's producers do not participate in the program.

It is apparent that there is a definite need for the crop insurance program to take a new direction. The purpose of this paper is to propose an alternative to the current program.

The following is a list of the most prevalent reasons given by producers at the recent Commission hearings for low participation:

- Premiums are too high.
- Coverage is too low.
- The program is too complicated.
- It is too difficult to prove yields.

Let us analyze these concerns as well as the intent of the original law and see if they can be addressed in a new program.

PREMIUMS TOO HIGH:

The only way premiums, which are presently inadequate, can be lowered is to increase the government premium subsidy. How can this be accomplished when we have a Congress which believes subsidies should be lower or even eliminated?

The proposed solution:

1. Rates should be calculated on an actuarially-sound basis. The rates should include administrative expenses, underwriting gain, and weighting for catastrophic losses. This loading will make the rates extremely high and would make an additional premium subsidy necessary to be affordable by the producer.

Where will the money come from?

a. Restriction of any further ad hoc disaster assistance (this would have generated savings of $4 billion over the last 5 years—an average of $836 million per year).

b. The FCIC's primary focus would be reinsurance and compliance. This would generate an annual reduction in administrative expenses.

c. Actuarially-sound rates would reduce the unintended subsidy (estimated at $174 million per year).

d. The expense reimbursement would be built into the rate, which would reduce the FCIC costs $167 million per year.

e. If companies were operating under a sound rating structure, their reinsurance need would be a stop-loss cover for which they could pay a premium to the Federal Government. This reinsurance premium would reduce the costs of the program, also.

All of these figures were based on 1988 participation levels. They will be considerably higher if participation doubles in 1989.

These factors would cover the increased costs of additionally subsidizing this program and there would be no additional expense to the budget. It could lead the program in the direction of becoming self-sufficient with the exception of extreme national catastrophes. If the program was in fact meeting the farmer's needs and giving him or her the coverage he or she desired, the subsidy could be gradually reduced.

SIMPLIFIED RATES:

Rates will be developed by crop, by practice, by county. Each rate will be quoted at a cost per $100 of liability. There will be one price and one level guarantee (75 percent).

COVERAGE IS TOO LOW:

Two coverage plans would be developed in the following manner:

a. Area Plan — This coverage will be calculated by determining the average value of each crop by taking the ASCS program yield times the current market value of the crop 60 days prior to the sales closing date (i.e., ASCS wheat yield in a given county of 30 bushels times 75 percent guarantee (22.5) times $4 per bushel market price would generate maximum coverage per acre of $90 on 100 percent interest). Once an average value was established per acre the producer would simply decide what amount per acre coverage he or she desired up to $90 per acre maximum. This coverage would reflect a 100 percent insurable interest in the crop. If the interest in the crop was less than 100 percent, the maximum would be adjusted accordingly.

b. APH Plan — If the producer is capable of producing yields above the current average, he would have the option to submit actual production records to establish his own APH coverage (i.e., 40 bushel yield data times 75 percent (30) times $4 per bushel would generate $120 per acre maximum on a 100 percent interest). The producer would then select up to $120 per acre coverage.

TOO DIFFICULT TO PROVE YIELDS:

The concern expressed by producers that the procedure for proving yields is too difficult may be alleviated by reducing the number of years used to initially determine the yield base from 10 to 5. It can also be improved by easing the rules governing acceptable records. If insurance companies were placed more at risk under the proposed program, their underwriting judgment could determine what was acceptable proof of production. ASCS yields would be used for years which records were not available to build the 5 — year base. Olympic scoring could be part of this system.

UNITS:

The current unit structure would be used offering basic policy units under the Area Plan and optional units under the APH Plan. There would be no surcharge for optional units.

LOSS CALCULATION:

If the producer chose the area plan and had a 22.5 bushel guarantee based on 75 percent of the county average yield of 30 bushels per acre and suffered a loss from an insured peril, his actual harvested yield would be reflected as a percentage of his guarantee.

22.5 bushel guarantee X $4 = $90 coverage per acre

15 bushel yield divided by 22.5 guarantee = 33 percent loss

33 percent loss X $90 per acre = $30 per acre payment

The coverage would need to reflect the insurable interest in the crop.

If the same loss were to have occurred to the producer who had proven a 40 bushel APH yield (30 bushel guarantee) and he had selected the maximum coverage of $120 per acre on a 100 percent interest, the following loss payment would have resulted:

30 X $4 = $120 coverage per acre

15 bushel yield divided by 30 APH guarantee = 50 percent loss

50 percent loss X $120 per acre = $60 per acre payment

There may need to be a rate credit for the good producer who can show outstanding yields, and there may be need for surcharges for excessive loss ratios for producers not capable of producing county ASCS yields.

PROGRAM ADMINISTRATION:

What should the role of the FCIC be?

1. Reinsurer — There is no way any company can survive the catastrophic losses which occurred in 1988. The FCIC must provide catastrophic reinsurance to private industry.

2. Compliance — As long as taxpayer's money is used to subsidize the crop insurance program, the Federal Government will maintain oversight of the program. Companies assuming the risk up to 100 percent loss ratio will reduce the current compliance structure.

3. Actuarial — The basic responsibility for developing rates and developing new programs will be the private industry's, subject to the approval by the FCIC.

4. Program Administration — There will always be a need for the coordination of the program between the FCIC and industry, and between Congress and the FCIC.

What will private industry's role be?

1. Develop and file with the FCIC rates and rules for marketing the MPCI product.
2. Train the agents.
3. Underwrite the coverage.
4. Issue the policy.
5. Adjust the claims.
6. Pay the losses.
7. Reinsure with the FCIC.

FLOW CHART

United States Department of Agriculture

Secretary of Agriculture

Board of Directors
(oversight of the program)

FCIC Manager

Reinsurance *Acturial* *Program Administration* *Compliance*

Board of Directors: The Board shall consist of 12 members (6 from the crop insurance industry and 6 representing producers). The Chairman should be a producer. The Board will have regularly scheduled meetings and will be involved with the direction of the program.

FCIC Manager: The manager will answer directly to the Secretary of Agriculture and will be responsible for managing the crop insurance program. He will work closely with the Board to determine program objectives.

Reinsurance Division: The Reinsurance division will develop the terms of the reinsurance contract with the assistance of the primary insurers. This will include negotiation of the terms of the stop-loss treaty. The stop-loss treaty will include a loading for establishing a catastrophic loss reserve and will be experience-rated. After the treaty is in place, the reinsurance division will administer the program. This would include all financial and accounting transactions between the companies and the corporation. The Reinsurance Division would also serve as a liaison between the companies and the manager with problems concerning reinsurance.

Actuarial: The Actuarial Division will have the responsibility for approving all rates and rules. The Division will also have approval authority for all new products. The Actuarial Division would also develop all reinsurance stop-loss rates.

Compliance: The Compliance Division will have program oversight responsibility. The fact that companies will be bearing more risk will greatly reduce the extent to which oversight will be necessary. The Compliance Division will also approve all loss adjusting procedures. The National Crop Insurance Services (NCIS) will conduct the research necessary to develop new procedures, but they will be subject to the approval of the Compliance Division.

Program Administration: The Program Administration Division would administer policy and procedure and oversee data processing and other technical administrative programs. It would administer subsidized funding of the program and work as the liaison between government and industry. The Division would be responsible for policies written directly by the FCIC. The Division would assure that sound business practices are carried out in the direct delivery system.

SUMMARY:

The end result of this approach is the following:

For the taxpayer —

1. The money spent on the current program is redirected to a pure premium subsidy to the producer.
2. The concept meets the original intent of the 1980 law.
3. The program should replace the need for disaster assistance.
4. Eventually should reduce the overall cost of the program.

For the Producer —

1. Simplifies the program.
2. Gives more coverage.
3. Offers a higher premium subsidy.
4. Eases entry into the program.

For the FCIC —

1. Primary responsibilities will be focused on regulation and reinsurance.
2. Makes the crop insurance program an "insurance" program as opposed to a social program.
3. Should alleviate congressional pressures.
4. Easier program to administer.
5. Retains the dual delivery system.

For Private Companies —

1. Give more opportunity for input on setting rates and rules.
2. Provides an opportunity for underwriting gain.
3. Product which is simple to market.
4. Easier product to administer.

APPENDIX C

ADDITIONAL VIEWS OF COMMISSIONERS BILL AND FULWIDER

We sincerely appreciate the hard work of the Commissioners in developing this report to Congress on the Federal crop insurance program. We support most of the recommendations of the Commission, but wish to provide Congress with additional views on two aspects of the report, namely the costs of the program and the achievement of actuarial soundness.

Program Cost

The Commission approved a proposal (the "increased subsidy approach"), which would continue the current FCIC program, but merely increase the subsidy levels to a 30 percent premium subsidy for all levels of coverage up to 75 percent of yield. In addition to this increased subsidy recommendation, an additional temporary premium subsidy of 20 percent is recommended by the Commission on the premium for coverage levels up to 65 percent.

Although these increased subsidies are recommended as a method of increasing the participation level of the program and satisfying the need of the producers for greater subsidy at higher levels of coverage, the increase in program costs and budget impact may be prohibitive. The Commission has discussed participation levels of 65 percent as a desirable objective. Preliminary cost estimates of the increased subsidy recommendations indicate an additional subsidy cost in excess of $225 million comparing the recommended subsidy to the current subsidy structure based on a 65 percent participation level. The combined impact of increasing participation levels from 25 percent (1988 level) to 65 percent and increasing the subsidy levels is an increase in total program cost of about 150 percent.

Actuarial Soundness

The goal of actuarial soundness within 5 years is stated as an objective in the Commission report, but little specificity is provided as to how that objective should be accomplished. In our opinion, the Commission should provide Congress with specific guidance on how to achieve actuarial soundness. The report falls short in this regard. We believe Congress should move aggressively toward that goal now by adopting a whole new approach, such as the one proposed by Commissioner Doyle Rahjes, which would take all costs into consideration rather than trying to patch up a program fraught with cost overruns. [Note: Commissioner Rahjes' proposal can be found in Appendix B of this report.]

Commissioner Rahjes' proposal would adjust rates to an actuarially-sound basis immediately, including a provision for catastrophic losses plus all administrative expenses in the calculation of the rates. Under this proposal, Congress would establish an appropriate subsidy level based on budgetary and participation considerations. Thus, this approach differs from the "increased subsidy approach" in that it includes administrative expenses in the calculation of the premium rates, and the proposal specifies that rates would be set on an actuarially-sound basis immediately.

In addition, we support Commissioner Rahjes' proposal because of its favorable impact on the reinsurance delivery system. Since rates would be actuarially sound, it would allow companies to retain more risk and encourage private reinsurance participation, permitting the FCIC to become only a catastrophe reinsurer. By requiring companies to take more risk, the cost to the government would be reduced by shifting more risk to private industry, which would also reduce the cost of government oversight.

APPENDIX D

POSSIBLE SOLUTION TO PROBLEM OF MARKET PRICES FOR ASCS PROGRAM CROPS

The current ASCS commodity programs present several problems for the Federal crop insurance program. One of the more serious problems is that these programs give farmers a false sense of security because target prices, loan rates, and deficiency payments provide some protection against losses in yield. However, when widespread losses occur, producers can incur losses to income not only through lost production but also through reduced deficiency payments.

One possible solution would be to enact legislation establishing a supplemental payment program as described below for producers of target price commodities who participate in the Federal crop insurance program. During its deliberations, the Commission considered, but did not adopt, a recommendation that such legislation be enacted. However, the Commission is including the outline of the proposal in this report for the benefit of Congress and the Administration as they consider ways to improve the Federal crop insurance program.

* * * *

The value of deficiency payments per commodity unit (e.g., per bushel) is based on the difference between the target price and the average market price or the basic loan rate for the crop, whichever is higher. The deficiency payments are then made on the basis of the individual person's ASCS farm program payment yield for the farm. If a producer enrolls in an ASCS commodity program, the deficiency payment is made whether or not a crop is harvested, provided the crop was planted for harvest. For example, a corn farmer with an ASCS program yield of 100 bushels will be paid the deficiency payment rate multiplied by 100 bushels. If the target price is $3.00, the market price is $2.00, and the loan rate is $1.90, the farmer would receive $1.00 in deficiency payments for each bushel, or $100, provided the crop was planted for harvest.

Deficiency payments are authorized for wheat, feed grains, cotton, and rice. Because deficiency payments have been made every year for the past 8 years for most of these commodities, some farmers believe they will receive a deficiency payment even in years when the market prices rise dramatically due to disasters. These beliefs have been reinforced by the practice of providing a portion of the projected deficiency payments in advance, at or near the time of program sign up.

Recent experiences with widespread drought have demonstrated that this system presents additional risks to farm income. When substantial crop losses occur, the market price can increase to a level equal to or greater than the target prices, thereby eliminating the deficiency payment. Since Federal crop insurance price elections are based upon projected market prices, they are often influenced by the loan rates established under the current commodity programs. In offering nonrecourse loans, the government supports the market price at the loan rate since the producer has the option of repaying the loan or forfeiting the commodity to the government.

When widespread crop losses result in dramatically higher prices for the crop during its marketing period, producers who incur substantial crop losses are subjected to a new element of risk to farm income because their deficiency payments may be substantially reduced or eliminated. This risk to farm income is not currently covered by Federal crop insurance and is compounded if the producer received an advance deficiency payment. In addition, the producers who have Federal crop insurance are only indemnified for their losses on the basis of the price election level chosen and not the price received in the market place at the time the commodity is normally harvested. In years of substantial crop losses, the highest price election level available under the Federal crop insurance program is generally much lower than the market price at harvest time. This difference between the highest price election level and the market price at harvest results in dissatisfaction with the Federal crop insurance program by producers.

The 1988 corn crop and, very likely, the 1989 wheat crop illustrate the problem. In 1988, corn producers experienced income losses due to both yield shortfalls and the elimination of, or a substantial reduction in, deficiency payments. For producers with Federal crop insurance, their coverage did not cover a substantial part of this loss, even if they had chosen the highest price election level available under the program. Many of these producers were dissatisfied with their Federal crop insurance coverage as the highest price election level offered prior to the sales closing date for insurance for the crop turned out to be considerably below the market price of the commodity at harvest time.

To remove some of the disincentives for participation in the Federal crop insurance program for these producers of ASCS program commodities, higher insurance payments should be provided when widespread disasters occur. It is not advisable to offer farmers, at harvest time, a price election level equal to the then current market price because such an option is impossible to rate. Providing both price and yield protection increases the risk exposure for the payment of indemnities since prices and yields move in opposite directions and widespread yield shortfalls will be accompanied by high prices. Thus, the actuarial soundness of the program would be in jeopardy if a price election option were offered at harvest time based on the then current market price.

Market prices and total deficiency payments are estimated well in advance for the purpose of establishing the Federal budget. When widespread disasters cause market prices to rise above the estimated market prices, Federal budget outlays are lower than anticipated. Congress recognized this last year as the proponents of the Disaster Assistance Act of 1988 argued that the bill was within the Federal budget limit since costs were offset by declines in deficiency payments.

During years of widespread disaster when market prices at harvest time exceed the projected market price used for estimating Federal budget outlays, the Secretary of Agriculture could be authorized by Congress to transfer an amount equal to the savings derived from the lower deficiency payments to the FCIC for the purpose of making a special, supplemental payment to farmers with Federal crop insurance. Payments would be made available only to wheat, feed grain, cotton, and rice producers who participated in the ASCS commodity program and the Federal crop insurance program and who selected the highest price election level.

Under this proposal, funds derived from savings in the deficiency payments for one particular commodity could only be used by the FCIC to make supplemental payments to eligible producers of the same commodity. For example, if funds were transferred due to savings in the ASCS wheat program, the funds could only be used by the FCIC to make payments to eligible wheat producers. Any funds remaining after making the supplemental payments could be applied to the subsequent premium rates of all producers of that specific commodity, or, alternatively, these funds could be used to establish a "commodity specific catastrophic reserve."

Available funds from such savings would be transferred to the FCIC, under this proposal, if the average market price for the 2-month period in which the majority of the commodity is typically harvested is 25 percent above the top price election level offered by the FCIC. The FCIC would then provide a supplemental indemnity payment to eligible producers. To the extent funds are available, the payment would be computed by multiplying the number of commodity units (i.e., bushels, pounds, or hundredweight) for which Federal crop insurance indemnity payments have been made by the difference between the highest price election level for Federal crop insurance and the average market price for the 2-month period in which the commodity is typically harvested.

It is possible that this proposal could provide needed incentives for participation among farmers growing certain ASCS program commodities and possibly could offer some protection in years of widespread disasters.

APPENDIX E

OPINION ON THE STANDARD REINSURANCE AGREEMENT

CARMODY, MACDONALD, HILTON & WOLF, P. C.
ATTORNEYS AND COUNSELORS AT LAW
120 SOUTH CENTRAL AVENUE, SUITE 1100
ST. LOUIS, MISSOURI 63105
OFFICE: (314) 726-5550
FAX: (314) 726-5516

JAMES D. KEAST

June 8, 1989

Messrs. M. K. Felt and
Raymond L. Davis
Co-Chairmen
Commission for the Improvement
of the Federal Crop Insurance Program
1255 23rd Street, N.W., Suite 880
Washington, D.C 20037

Gentlemen:

This letter is in response to your correspondence dated May 15, 1989 requesting a legal opinion as to whether the Reinsurance Agreement between the private insurance companies (reinsured companies) and the Federal Crop Insurance Corporation ("FCIC") is in accordance with and complies with the intent of the reinsurance provisions (and other applicable provisions) of the Federal Crop Insurance Act as amended in 1980 (the "Act").

I. Background and Overview

You furnished a copy of the Standard Reinsurance Agreement dated July 1, 1987 (the "Reinsurance Agreement"), between the FCIC and the reinsured companies and a copy of a memorandum from Arnold J. Grundeman, Deputy Assistant General Counsel, Foreign Agriculture and Commodity Stabilization Division, Office of the General Counsel, USDA, addressed to John Marshall, Manager, Federal Crop Insurance Corporation, dated July 5, 1988 ("OGC Memo"). Mr. Grundeman opined on the Reinsurance Agreement and its provisions which permit a reinsurance company to have a net underwriting gain even though its loss ratio is in excess of 1.0. Mr. Grundeman concluded that "...provisions do exist for sharing underwriting loss and gain. However, we do not believe that one party should receive the underwriting gain while the other party, at the same time, receives the underwriting loss on the same book of business."

The Reinsurance Agreement permits reinsurance companies to select the State stop loss and surplus share provision in the counties and states with historic loss patterns. The premium collected in states and counties with low historical losses can result in the premium collected on the reinsured company's total book of business to exceed its total losses. The result can be an underwriting gain at the same time that there is a loss ratio in excess of 1.0. The concern is whether this result is authorized by the Act.

II. Section 508 of the Act

Section 508 of the Act addresses reinsurance and provides, in part, as follows:

> To carry out the purposes of this chapter the Corporation [FCIC] is authorized and empowered-
>
> . . .
>
> ### A. Section 508(e)
>
> (e) And directed, notwithstanding any other provision of this chapter, to provide reinsurance, to the maximum extent practicable, upon such terms and conditions as the Board may determine to be consistent with subsections (a) and (b) of this section and sound reinsurance principles, to insurers including private insurance companies or pools of such companies, reinsurers of such companies, or State or local governmental entities, including any political subdivisions thereof, that insure producers of any agricultural commodity under a plan or plans acceptable to the Corporation.... In order to provide equity among producers purchasing crop insurance, whenever the Corporation provides reinsurance under this subsection to any such insurers, the Corporation shall pay a portion of each producer's premium for such insurance so reinsured.... The Corporation shall also pay operating and administrative costs to insurers of policies on which the Corporation provides reinsurance to the same extent that such costs are covered by the Corporation on the Corporation's policies of insurance....
>
> 7 U.S.C. §1508(e).

Section 508(e) of the Act directs the FCIC to provide reinsurance on sound reinsurance principles to insurers, including private insurance companies, require the FCIC to pay a portion of the farmer's premiums and operative and administrative costs to the insureds of policies on which the FCIC provides reinsurance, to the same extent that such costs are covered by the FCIC on the FCIC's policies of insurance. This Section of the Act does not give specific direction regarding distribution of risks and a sharing of gains and losses under the Reinsurance Agreement with reinsured companies.

B. Section 508(b)(1)

Section 508(b)(1) of the Act provides:

> To fix adequate premiums for insurance at such rates as the Board deems actuarially sufficient to cover claims for losses on such insurance and to establish as expeditiously as possible a reasonable reserve against unforeseen losses.
>
> 7 U.S.C. §508(b)(1).

The words "actuarially sufficient" are the basis for setting the premiums to cover losses and establish a reserve for a nationwide all-risk crop insurance program.

III. Legislative History

The legislative history of the Act shows Congress was concerned about the defects in the existing crop insurance program. The

Committee reports and the debates by members of Congress express the social and fiscal objectives of the 1980 amendment to the Act. The primary objectives of the 1980 amendment were (i) to eliminate the crop disaster relief programs by providing a nationwide all-risk crop insurance program to farmers; (ii) to use private insurance companies as the primary insurance carriers; (iii) to direct the FCIC to provide reinsurance to the private insurance companies; and (iv) to furnish a crop insurance program at a minimal cost to taxpayers.

A. Elimination of Disaster Relief Programs

Congress was concerned that the current crop insurance program was not available in approximately one-half of the counties in the United States and then on a limited number of crops. The six major farm crops benefiting from commodity price support programs were also eligible for disaster payments. Farmers were required to participate in set-aside programs on those crops to be eligible for disaster benefits but without cost to them. The free disaster payments and the requirement that premium rates be actuarially sound limited participation in the crop insurance program.

The Act enables the FCIC to expand crop insurance programs to all agricultural counties growing major commodities and specialty crops. The expansion into a nationwide all-risk insurance program would eliminate the need for the disaster payment program. See House Report No. 96-430, The Committee on Agriculture, pp. 9-10; 1980 Code Cong. & Ad. News 3070-3073.

Congressman Jones, in discussing the Conference Report on S.1125, stated:

> It is an expensive system. It benefits producers of only six crops, and a disproportionate amount of its benefits go to certain higher risk areas of the country, thus encouraging production where it probably should not be encouraged. The disaster payments program is another example of the "public dole".
>
> S.1125 would change that. It would, through a creative public-private partnership, permit a nationwide, all-risk crop insurance program to become the primary form of Federal disaster protection for farmers. Rather than producers of only six crops being granted protection, all farmers in every county in the United States would eventually be given the choice of insuring themselves against natural disasters. Rather than a giveaway program, crop insurance requires farmers to responsibly anticipate their own capacity to bear risk and assume part of the cost of insuring themselves if they chose to do so.
>
> These amount to substantial changes in public policy.
>
> Congressional Record, p. H9015, September 17, 1980.

Senator Huddleston also discussed the disaster payment issue:

> ...the history of this program surely persuades us that disaster payments encourage and foster inequities among producers. As sweet as the payments are to wheat and upland cotton producers, they are onerous to producers of soybeans and other ineligible crops. Disaster payments discriminate against small producers and sometimes give rise to unsound management practices. These program discrepancies eat away at the heart of American agriculture and heap heavy financial burdens on the taxpayers of this country. I have come to the conclusion that farmers across this Nation will be better off as a whole if disaster payments are replaced with a sound Federal all-risk crop insurance program that protects them against catastrophic crop losses. As long as disaster payments continue, there can be no real expansion of Federal crop insurance....
>
> Congressional Record, p. S12258, September 10, 1979.

B. Use of Private Insurance Companies as the Primary Insurance Carrier

The utilization of the talents, experience and enthusiasm of private insurance agents and companies was considered vital to the success of the crop insurance program. See House Report No. 96-430, The Committee on Agriculture, p. 13; 1980 Code Cong. & Ad. News 3076. Senator Huddleston, in discussing the bill in the Senate, stated:

> Private insurance companies, as a rule, now write only specific risk crop insurance covering hail, fire, and lightning risks. Numerous attempts by private industry to write all-risk policies have failed.
>
> Federal reinsurance--to cover the risk of catastrophic losses such as those that arise from large-scale droughts, floods or freezes--is necessary if private industry is to succeed in entering the all-risk field.
>
> Congressional Record, p. S12185, September 8, 1980.

Congress thoroughly considered the use of private insurance companies as stated in the House Report on its bill.

> In implementing the new crop insurance program, H.R. 4119 provides that reinsurance of private insurance companies willing to offer the all risk insurance program shall be used to the "maximum extent practicable". This language reflects the Committee's desire to see maximum cooperation between the public and private sectors and to ensure that the FCIC understands that it is to make a good faith effort to negotiate reinsurance arrangements. The Corporation should seek out private companies in all areas of the country which have the capability and desire to enter into a successful reinsurance arrangement.
>
> House Report No. 96-430, The Committee on Agriculture, p. 14; 1980 Code Cong. & Ad. News 3077.

The necessity of the participation of private insurance companies was clearly understood by the Senate in that "[t]he Federal all-risk crop insurance program cannot expect to have maximum participation by Farmers unless private industry commits its resources and delivery system to all-risk insurance." Congressional Record, p. S12185, September 8, 1980.

C. FCIC to Provide Reinsurance to Private Insurance Companies

Congress recognized the necessity of Federal reinsurance to cover the risk of catastrophic losses arising from large-scale droughts, floods and freezes, to achieve participation by private industry. See House Report No. 96-430, The Committee on Agriculture, p. 14; 1980 Code Cong. & Ad. News 3076. See also House Conference Report No. 96-1272 at p. 17 which states in part:

> The House Amendment directs the Corporation to provide such reinsurance, to the maximum extent practicable, to private insurance companies, reinsurers of such companies, and State or local government entities.

As was noted in the foregoing section, Senator Huddleston has also acknowledged the role of the FCIC in furnishing reinsurance to private companies. See Congressional Record, p. S12185, September 8, 1980.

D. Minimal Cost to Taxpayers

The disaster payment program provided an inequitable solution at a great expense to the taxpayer. In introducing the all-risk crop insurance program utilizing private insurance companies, Senator Huddleston summarized the goal of the program in stating:

> As a matter of fact, that is the general purpose of proposing this legislation now, to substitute for a costly, very limited, very narrow program, a broad program nationwide, which would cost less to the taxpayers of the United States.
>
> Congressional Record, p. S12258, September 10, 1979.

Senator Helms also recognized its benefits in stating:

> In making these significant modifications of the Senate crop insurance bill, the Conferees have paved the way for reinsuring an inequitable and much-abused disaster payments program with a nationwide, shared-cost, all-risk crop insurance program that should cost the American taxpayers far less than the current disaster payments.... I believe that this legislation creates the kind of environment in which private industry and the Federal Government can work together in a partnership to provide the farmers of this Nation with protection from natural disasters at a reasonable cost to both producers and taxpayers.
>
> Congressional Record, S12185, September 8, 1980.

E. Actuarial Sound Premiums

Congress carried outs its desire that the crop insurance program be mostly self-sufficient by adding the word "actuarially" to section 508(b)(1) of the Act.

> The bill changes the Act to require that premiums for Federal crop insurance be set at a rate actuarially sufficient to cover claims and establish a reserve. An accurate actuarial base is important to the program because it is the primary means of attaining the necessary balance between premiums and benefits to maintain financial solvency of the insurance fund and, in turn, of gaining the respect of farmers and the taxpayers. With the addition of the word "actuarially" to the Act, FCIC will be required to base premiums on the risk of loss for the crop and area involved.
>
> House Report No. 96-430, The Committee on Agriculture, pp. 17-18; 1980 U.S. Code Cong. & Ad. News 3080.

F. Summary

The legislative history shows that Congress intended reinsurance of private insurance companies be used to accomplish the fiscal and social goals of eliminating crop disaster programs and make available nationwide all-risk insurance for farmers. To gain participation by private insurance companies, it is necessary to provide a sound reinsurance program to share the risk against catastrophic losses and losses from areas with historically high losses.

IV. Reinsurance Principles

Section 508(e) of the Act requires the FCIC to provide reinsurance upon terms and conditions consistent with "sound reinsurance principles", but does not define this term. Consequently, "sound reinsurance principles" must be considered in the context of practice common within the insurance industry and the generally accepted principles of reinsurance.

Our comments on the role of reinsurance within the insurance industry is based on our own experience, research and consultation with representatives in the industry.

Reinsurance passes the risk of all or part of the losses which may be incurred on policies issued by the primary insurer through reinsurance treaties. This is accomplished by a primary insurer ceding all or a part of its risk to the reinsurers for a payment of a portion of the premium collected by the primary insurer from the insured.

The Act requires the FCIC to assume the role of a commercial reinsurance company. The reinsured companies can cede risks to the FCIC in accordance with the terms of the Reinsurance Agreement.

Congress recognized the catastrophic characteristics of agriculture and the wide swinging losses as well as areas with historically high losses. To expand the insurance program to cover more crops, the risk needs to be shared by reinsurance through the FCIC.

As stated above, the FCIC, in setting premiums and determining the risk sharing, is required to adhere to "sound reinsurance principles". However, the profits and losses of the primary insurers (reinsured companies) may not at any point in time be in balance with FCIC. In the long term, there should be a balance of underwriting gains and loss ratios. But, the unpredictability of crop losses may cause a short-term imbalance and does not mean the insurance program is not adhering to "sound reinsurance principles".

Section 508(b)(1) of the Act requires the FCIC to "...fix adequate premiums for insurance at such rates as the Board deems actuarially sufficient to cover claims for losses on such insurance...." (emphasis added).

The legislative history shows Congress intended "actuarially sufficient" to mean that premiums are to cover losses and establish a reserve against unforeseen losses.

V. Reinsurance Agreement

The Act leaves "sound reinsurance principles" and "actuarially sound" undefined. Therefore, the Reinsurance Agreement must be reviewed in light of commercial insurance practices.

The Reinsurance Agreement contains various loss limiting provisions which share premiums and losses. The assigned risk reinsurance, quota share, surplus share reinsurance, portfolio exchange and national and state stop loss reinsurance provisions are generally consistent with commercial reinsurance practices. These loss limiting provisions acknowledge the crop and geographical variances of losses which are essential in any meaningful reinsurance treaty. Without such provisions, the reinsured companies would only insure crops with more predictable losses, which would not be consistent with the intent of Congress to make all-risk insurance on agricultural crops available to the maximum number of farmers.

The Reinsurance Agreement addresses cessions and sharing of premiums and leaves the amount of premiums and conditions of insurance coverage to the insurance contract between the reinsured company and the farmer (policyholder).

Since a reinsured company does not control the premium nor the conditions of insurance coverage, the Reinsurance Agreement is the document used to share and limit losses between the reinsured companies and the FCIC. An actuarial analysis is inherently imperfect in predicting crop losses in the short run. A commercial reinsured company, to remain solvent and meet its own "actuarial soundness" requirement to stay in business, needs to make a decision on retained and ceded risks. The result may be for a reinsured company for a particular year to have an underwriting gain and a loss ratio in excess of 1.0, which is consistent with commercial practice and not in conflict with the Act.

VI. Conclusions

The Reinsurance Agreement carries out the intent of Congress and is consistent with the Act. Moreover, the Reinsurance Agreement is consistent with sound reinsurance principles.

If there are any inconsistencies with the Act in the Federal Crop Insurance Program, it would appear to be a function of the rate of premiums being set by the FCIC and not the reinsurance provisions of the Reinsurance Agreement.

We are not rendering any opinion as to whether the actual percentage sharing of losses and premiums in the loss limiting provisions of the Reinsurance Agreement is consistent with the Act.

We thank you for the opportunity to review the Reinsurance Agreement and render our opinion as requested. If you have any questions or desire additional information or clarification, please feel free to contact me.

Sincerely yours,

CARMODY, MacDONALD,
HILTON & WOLF, P.C.

James D. Keast

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APPENDIX F

AUTHORIZING STATUTE

Public Law 100-546
100th Congress

An Act

Oct. 28, 1988
[H.R. 5325]

To establish a commission to review and make recommendations for the improvement of the Federal crop insurance program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Crop Insurance Commission Act of 1988.
7 USC 1508 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Crop Insurance Commission Act of 1988".

7 USC 1508 note.

SEC. 2. FINDINGS, POLICY, AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the Federal crop insurance program was established to promote the national welfare by improving the economic stability of agriculture through a sound and comprehensive system of nationwide crop insurance that would allow the phasing out of disaster payments programs as part of farm price support and income protection programs;

(2) despite recent increases in the acreage covered by Federal crop insurance, the level of farmer participation in the Federal crop insurance program in most agricultural areas is below what the Congress anticipated when the Federal Crop Insurance Act of 1980 (Public Law 96-365) was enacted into law; and

(3) low levels of participation in the Federal crop insurance program, from time to time, have contributed to the need to continue disaster payment programs in response to recurring natural disasters that threaten farmers, crop production, and the food supply of the United States.

(b) STATEMENT OF POLICY.—It is hereby declared to be the policy of the Congress, in order to further the improvement of national farm policy, to determine why the Federal crop insurance program has not developed into a fully effective substitute for ad hoc disaster payment programs.

(c) PURPOSE.—The purpose of this Act is to ensure the thorough review of the Federal crop insurance program and the development of recommendations for such changes as are needed to improve the program so as to lessen, if not eliminate, the need for additional disaster payment programs, and thereby reduce the burden such programs impose on the Federal budget while providing to producers of agricultural commodities more equitable, efficient, and predictable protection from natural disasters.

7 USC 1508 note.

SEC. 3. ESTABLISHMENT OF COMMISSION.

There is hereby established a commission to be known as the Commission for the Improvement of the Federal Crop Insurance Program (in this Act referred to as the "Commission"), which shall review and make recommendations concerning the authorization and administration of the crop insurance program established under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) (in this Act referred to as the "program"), as provided in section 5.

SEC. 4. MEMBERSHIP OF COMMISSION.

7 USC 1508 note.

(a) In General.—The Commission shall be composed of 25 members, 21 of whom shall be voting members and 4 of whom shall be nonvoting members.

(b) Voting Members.—The 21 voting members of the Commission shall be the Manager of the Federal Crop Insurance Corporation and 20 other members who shall be appointed by the Secretary, as follows:

(1) Appointees.—Within 30 days after the date of the enactment of this Act, the Secretary shall appoint to the Commission—

(A) 4 individuals who will represent the views of the companies (or managing general agencies which write crop insurance through other companies) that—

(i) have a 1989 reinsurance agreement under the Federal Crop Insurance Act; and

(ii) for the 1987 crop year, wrote the greatest dollar volume of federally reinsured crop insurance;

(B) 2 individuals who will represent the views of companies writing lesser dollar volumes of federally reinsured crop insurance, and 1 of whom will represent the views of the companies writing Federal crop insurance whose primary business is the writing of crop insurance for losses due to hail;

(C) 2 individuals who will represent the views of the 2 largest agencies selling non-reinsured Federal crop insurance;

(D) 2 individuals who will represent the views of national organizations of insurance agents;

(E) 1 individual who will represent the views of the largest national association representing wheat producers;

(F) 1 individual who will represent the views of the largest national association representing corn producers;

(G) 1 individual who will represent the views of the largest national association representing cotton producers;

(H) 1 individual who will represent the views of the largest national association representing soybean producers;

(I) 3 individuals who will represent the views of the 3 largest national general farm organizations; and

(J) 3 individuals who will represent the views of producers of fruits, vegetables, specialty crops, and other crops not specified in subparagraph (E), (F), (G), or (H).

(2) Consideration of nominations.—

(A) In making appointments under subparagraph (A) of paragraph (1), the Secretary shall consider nominations submitted by the 4 companies described in such subparagraph.

(B) In making appointments under subparagraphs (B), (C), and (D) of paragraph (1), the Secretary shall consider nominations submitted by the organizations and associations representing the insurance companies and agents that participate in the program.

(C) In making appointments under subparagraphs (E), (F), (G), and (H) of paragraph (1), the Secretary shall consider nominations submitted by the 4 associations described in such subparagraphs.

(D) In making appointments under subparagraph (I) of paragraph (1), the Secretary shall consider nominations submitted by the organizations described in such subparagraph.

(E) In making appointments under subparagraph (J) of paragraph (1), the Secretary shall consider nominations submitted by organizations representing producers of the commodities specified in such subparagraph.

(c) NONVOTING MEMBERS.—The 4 nonvoting members of the Commission shall be—

(1) the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate (or the designee of such Chairman), and the ranking minority member of such Committee (or the designee of such minority member); and

(2) the Chairman of the Committee on Agriculture of the House of Representatives (or the designee of such Chairman), and the ranking minority member of such Committee (or the designee of such minority member).

(d) ELECTION OF CO-CHAIRMEN.—At the first Commission meeting, the Commission shall elect 2 members to be the co-chairmen of the Commission, 1 of whom shall be chosen from among members appointed under subparagraph (A), (B), (C), or (D) of subsection (b)(1), and the other of whom shall be chosen from among members appointed under subparagraph (E), (F), (G), (H), (I), or (J) of subsection (b)(1).

(e) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

7 USC 1508 note.

SEC. 5. DUTIES OF COMMISSION.

(a) STUDY OF FEDERAL CROP INSURANCE PROGRAM.—

(1) IN GENERAL.—The Commission shall—

(A) study and determine why participation in the program has not reached the levels anticipated when the Federal Crop Insurance Act of 1980 was enacted;

(B) identify the States and commodities with respect to which the lack of participation in the program is most serious; and

(C) prepare findings and recommendations setting forth means by which—

(i) participation in such program, in such States and throughout the United States, and by producers of the commodities identified under subparagraph (B), may be increased; and

(ii) natural disaster protection for producers of agricultural commodities may be improved.

(2) PARTICULAR AREAS TO BE EXAMINED.—In particular, the Commission shall examine—

(A) the reasons why more producers of agricultural commodities do not participate in the program;

(B) the adequacy of the insurance coverage provided by the program;

(C) the adequacy of the development and use by the Federal Crop Insurance Corporation of yield data in the program, including the yields used to establish insurance coverage;

(D) the effects of the crop insurance premiums charged such producers on the level of participation in, and the cost of, the program, and the actuarial soundness of such premiums;

(E) the nature and extent of all government subsidies associated with the program;

(F) whether the sales commission rates and Federal payments for services performed by crop insurance companies and agencies are at the proper levels, taking into consideration, among other things, commission rates and payment levels charged in other property insurance programs in which the Federal Government participates;

(G) the efficiency of sales and claims adjustment services provided to such producers who purchase insurance under the program, and the effectiveness of the educational efforts to inform such producers about the program;

(H) the ways in which the provision of Federal crop insurance information and the procedures for obtaining such insurance may be made simpler, more uniform, and stable;

(I) the adequacy of compliance efforts by insurance companies, agencies, and the Federal Crop Insurance Corporation to ensure program integrity;

(J) the extent to which financial institutions require such producers to purchase crop insurance as a prerequisite to making credit available to such producers;

(K) the effect of the crop insurance requirements imposed under section 207 of the Disaster Assistance Act of 1988 (7 U.S.C. 1421 note) on participation in the program;

(L) the feasibility of adopting "premium pools" that would set a single, nationwide "group" premium for each agricultural commodity, including the impact of such pools on the premiums paid by such producers and on government subsidies of premiums charged under the program; and

(M) any other aspect of the program that the Commission determines has an impact on participation in, or the effectiveness of, the program.

(b) INTERIM REPORT.—Not later than April 1, 1989, the Commission shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Committee on Agriculture of the House of Representatives, and the Secretary of Agriculture (in this Act referred to as the "Secretary") an interim report containing findings and recommendations for immediate administrative improvement in the program, aimed at improving the program in the 1990 sales year.

(c) FINAL REPORT.—Not later than July 1, 1989, the Commission shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Committee on Agriculture of the House of Representatives, and the Secretary a report that shall include—

(1) recommendations for legislation including alternative methods for achieving the desired goals;

(2) a status report on the improvement of program administration by the Secretary based on the recommendations contained in the interim report and subsequent findings; and

(3) the findings and recommendations required to be prepared pursuant to subsection (a)(1)(C).

(d) CONTINUED MONITORING OF PROGRAM; MONTHLY REPORTS.—Beginning July 1, 1989, and ending December 31, 1990, the Commission shall continue to monitor the program and shall report on a monthly basis to the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Committee on Agriculture of the House of Representatives, and the Secretary on—

(1) the extent to which the recommendations of the Commission have been implemented; and

(2) the level of participation in the program by producers of agricultural commodities.

7 USC 1508 note.

SEC. 6. TERM OF OFFICE.

Appointment to the Commission shall be for the life of the Commission.

7 USC 1508 note.

SEC. 7. COMPENSATION OF COMMISSION MEMBERS.

Commission members shall not receive pay by reason of their service on the Commission, except that the Commission shall reimburse Commission members for reasonable and necessary travel expenses incurred by such members to carry out the duties and functions of the Commission.

7 USC 1508 note.

SEC. 8. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may, for the purpose of carrying out this Act, hold such hearings, sit and act at such times and places, take such testimony, and receive such information, as the Commission considers appropriate.

(b) OBTAINING OFFICIAL INFORMATION.—Subject to other law, the Commission may secure directly from any department or agency of the United States information necessary to enable the Commission to carry out the duties and functions of the Commission under this Act. On joint request of the co-chairmen of the Commission, the head of such department or agency shall furnish such information to the Commission.

(d) USE OF OTHER FEDERAL PERSONNEL AND SUPPORT SERVICES.—The head of each executive agency and the General Accounting Office shall furnish the Commission such personnel and support services as the head of such agency or Office, as the case may be, and the co-chairmen of the Commission agree are necessary to assist the Commission to carry out the duties and functions of the Commission under this Act. The Commission shall not be required to pay or reimburse such agency or Office for personnel and support services provided under this subsection.

(e) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(f) EXPERTS AND CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(g) LEASING OF OFFICE SPACE.—The Commission may lease office space in the District of Columbia.

SEC. 9. DIRECTOR AND STAFF OF COMMISSION. 7 USC 1508 note.

(a) APPOINTMENT.—Subject to such rules as may be prescribed by the Commission, the co-chairmen of the Commission may jointly appoint a staff director and such additional personnel as such co-chairmen agree are necessary to assist the Commission to carry out the duties and functions of the Commission.

(b) COMPENSATION.—Subject to such rules as may be prescribed by the Commission, the co-chairmen of the Commission may jointly fix the compensation of the staff director at a rate not to exceed the rate of basic pay payable for level IV of the Executive Schedule, and the compensation of additional personnel at a rate not to exceed the maximum rate of basic pay payable for GS-16 of the General Schedule.

(c) INAPPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

SEC. 10. RULES GOVERNING COMMISSION MEETINGS. 7 USC 1508 note.

(a) QUORUM.—11 Commission members with the right to vote at Commission meetings shall constitute a quorum. Any number of Commission members may hold hearings and receive reports but only if such proceedings are conducted by a co-chairman of the Commission.

(b) INITIAL MEETING.—Within 60 days after the date of the enactment of this Act, the Secretary or the delegate of the Secretary shall conduct the first Commission meeting.

(c) SUBSEQUENT MEETINGS.—After the first Commission meeting, the Commission shall meet at the call of either co-chairman or of a majority of the Commission members.

(d) PROHIBITION ON PROXY VOTING.—Voting by proxy shall not be allowed.

SEC. 11. TERMINATION. 7 USC 1508 note.

The Commission shall cease to exist on December 31, 1990, except that the Secretary may, in the discretion of the Secretary, extend the life of the Commission beyond such date.

SEC. 12. FUNDING. 7 USC 1508 note.

From amounts appropriated to the Federal Crop Insurance Corporation for administrative and operating expenses for fiscal year 1989, the Corporation shall make available to the Commission not to exceed $1,500,000 to carry out this Act. Amounts so made available shall remain available to the Commission until expended.

Approved October 28, 1988.

LEGISLATIVE HISTORY—H.R. 5325:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 26, considered and passed House.
Oct. 7, considered and passed Senate.

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APPENDIX G

LEGISLATIVE HISTORY AND STATUTORY PROVISIONS OF THE FEDERAL CROP INSURANCE ACT

ACKNOWLEDGMENT

The Commission wishes to express its appreciation to Matthew Bender and Company for permission to reprint the material in this appendix relating to the legislative history and statutory provisions of the Federal Crop Insurance Act. This material can be found in chapter 120A of the Matthew Bender and Company's agricultural law encyclopedia. The appendices accompanying chapter 120A are not reprinted here.

While not all of the material is reflective of the current Federal crop insurance program, the Commission believes that the information will be helpful to anyone studying the program.

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CHAPTER 120A

Federal Crop Insurance*

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* This chapter was prepared by John A. Harris. Mr. Harris was formerly Assistant General Counsel for Production, Distribution and Assistance of the Office of the General Counsel, United States Department of Agriculture. The author is a member of the Illinois and the District of Columbia Bars.

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§ 120A.01 Introduction and Legislative History

[1]—Introduction; Scope of Chapter

The Federal Crop Insurance Act[1] was enacted as Title V of the Agricultural Adjustment Act of 1938.[2] At that time, authority was provided only for a limited program of crop insurance for wheat.[3] Since 1938, the Act has been amended many times to permit insurance to be made available for other agricultural commodities and to provide for orderly expansion of the program into new geographic areas.[4] Extensive amendments adopted in 1980[5] provide the statutory framework for the program as it exists today.[6] In general, the Act creates the Federal Crop Insurance Corporation and authorizes the corporation to provide direct crop insurance to farmers for "agricultural commodities," or reinsurance to commercial insurance companies that issue crop insurance policies covering "agricultural commodities."[7]

If a crop is insurable, the insurance, in general, "shall be against loss of the insured commodity due to unavoidable causes, including drought, flood, hail, wind, frost, winterkill, lightning, fire, excessive rain, snow, wildlife, hurricane, tornado, insect infestation, plant disease, and such other unavoidable causes as may be determined by the Board."[8] In general, the insurance provided under the Act affords protection against loss of yield rather than coverage of losses from market price erosion.[9]

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[1] 7 U.S.C. §§ 1501–1520.

See also the criminal provisions applicable to officers, agents, employees or persons connected in any capacity with certain named agencies of the federal government, including the Federal Crop Insurance Corporation, in 18 U.S.C. §§ 657, 658, 1006, 1014, and 1903, discussed at § 120A.07 *infra*.

A summary of the organization and functions of the Federal Crop Insurance Corporation and a list of its regional offices appear in § 63.07[3] *supra*.

[2] Pub. L. 430, 75th Cong., Sec. 501 *et seq.*, 52 Stat. 72 (1938).

[3] *Ibid.*

[4] A discussion of the legislative history of the Act is included in § 120A.01[2] *infra*.

[5] Pub. L. 96-365, 94 Stat. 1312 (1980), signed on September 26, 1980.

[6] 7 U.S.C. §§ 1501–1520 and 7 C.F.R. Parts 401–439.

[7] 7 U.S.C. §§ 1503, 1508, and 1518. For a list of the crops insurable under the Act as "agricultural commodities," see § 120A.02[1][b][i] *infra*.

In addition to the traditional form of direct federal crop insurance sold to farmers, the Act also mandates that "reinsurance" be provided to "insurers including private insurance companies or pools of such companies, reinsurers of such companies, or State or local governmental entities, including any political subdivisions thereof, that insure producers of any agricultural commodity under a plan or plans acceptable to the Corporation."[10] The Act also requires the corporation to subsidize both direct insurance and insurance provided by private insurance companies under reinsurance agreements with the Corporation by paying 30 percent of each producer's premium on any coverage up to a maximum of 65 percent of the recorded or appraised yield.[11]

Federal crop insurance may, in general, be obtained through county offices of the Agricultural Stabilization and Conservation Service, private insurance agents who sell crop insurance under agency sales agreements with the Corporation and from private insurance companies (and their agents) that are participants in the federal crop reinsurance program.[12]

This chapter provides an overview of the Corporation and its programs, including:

(1) the legislative history of federal crop insurance;[13]

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[8] 7 U.S.C. § 1508(a).

See also § 120A.03 *infra* for a detailed discussion of insurance coverage, exclusions and limitations.

[9] *Ibid.*

[10] 7 U.S.C. § 1508(e).

The provision requiring reinsurance of risks undertaken by private insurance companies was added to the statute in 1980. Notice of the availability of reinsurance and the terms of the standard reinsurance agreement were published in the Federal Register of January 5, 1981, 46 Fed. Reg. 974, and amended on August 20, 1981; 46 Fed. Reg. 42305. See § 120A.04 *infra* for a discussion of reinsurance.

[11] 7 U.S.C. § 1508(b)(3).

[12] 7 U.S.C. § 1507. See also § 120A.05 *infra* for a discussion of sales agency agreements.

[13] See § 120A.01[2] *infra*.

(2) the organization and the operation of the Corporation and the administration of insurance programs;[14]

(3) the terms and conditions of crop insurance policies;[15]

(4) the development of the reinsurance program and its operation;[16] and

(5) the special criminal provisions of the Act.[17]

[2]—Legislative History of the Federal Crop Insurance Act

The Act was, in part, the product of an Executive Committee on Crop Insurance appointed by President Roosevelt to study the problems of effective financial protection against crop failure.[18] The concept had been considered in the United States at least 20 years prior to submission of the Committee's report in 1937.[19] The Committee concluded that earlier commercial attempts to insure against crop failures were unsuccessful because:

(1) the insurance was put into effect in limited areas that did not offer a sufficient spread of risk in the event of extensive crop failure;

(2) earlier insurance had unsuccessfully attempted to cover losses from price declines as well as crop failures; and

(3) previous crop insurance was predicated on data inadequate

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[14] See § 120A.02 *infra.*

[15] See § 120A.03 *infra.*

[16] See § 120A.04 *infra.*

[17] See § 120A.07 *infra.*

[18] Message from the President of the United States dated February 18, 1937, transmitting "The Report and Recommendations of the President's Committee on Crop Insurance" printed as House Document No. 150, 75th Cong., 1st Sess. (1937). At that time, crop insurance was looked upon as complementary to a system of storage reserves. The President's letter stated: "Crop insurance and a system of storage reserves should operate so that surpluses in years of good weather might be carried over for use in years of unfavorable growing conditions. Crop insurance and a system of storage reserves would help to protect the income of individual farmers against the hazards of crop failure; it would help to protect consumers against shortages of food supplies and against extremes of prices; and finally, it would assist in providing a more nearly even flow of farm supplies, thus stabilizing farm buying power and contributing to the security of business and employment." Page III, House Doc. 150, *supra.*

[19] *Id.* at 3.

> to determine degrees of risk and a satisfactory actuarial basis for the insurance.[20]

The President's Committee recommended that initially a program be tried for wheat alone and that data for cotton and corn be studied.[21] The Act adopted in 1938 followed the recommendation and afforded coverage only for wheat.[22] In 1941, Congress amended the Act to change "wheat" to "agricultural commodities" and specifically included cotton "planted for harvest in 1942."[23]

The availability of crop insurance was severely restricted by amendments to the Act in 1947.[24] Under the 1947 legislation, insurance was limited to seven crops for the 1948 crop year, of which five (wheat, cotton, flax, corn, and tobacco) were specified in the law and thereafter the Corporation was permitted to add no more than three commodities per year.[25] Geographic expansion was also limited: insurance could be provided in no more than 200 counties for wheat, 56 for cotton, 50 for corn and flax, 35 for tobacco, and 20 for any other commodity.[26] Counties were not eligible for the program unless 200 farms or one-third of the farms in the county producing a particular commodity participated in the program.[27] Reinsurance for private insurance companies issuing crop insurance was authorized on a very limited trial basis in no more than twenty counties.[28]

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[20] *Ibid.*

[21] *Id.* at 5.

[22] Pub. L. 430, 75th Cong., Title V, 52 Stat. 72 (1938). See also H.R. Rep. 227, 75th Cong., 1st Sess. (1937) and H.R. Rep. 1479, 75th Cong., 1st Sess. (1937) reporting on crop insurance legislation.

[23] Pub. L. 118, 77th Cong., Ch. 214, Sec. 1, 53 Stat. 255 (1941).

[24] Pub. L. 320, 80th Cong., Secs. 1-8, 61 Stat. 719 (1947). See also S. Rep. 378, 80th Cong. [1947] U.S. Code Cong. & Ad. News 1542.

[25] *Ibid.*

[26] *Ibid.*

[27] N. 24 *supra* and Pub. L. 551, 58 Stat. 918 (1944).

[28] Pub. L. 320, 80th Cong., Sec. 1, 61 Stat. 719 (1947).

The Senate Committee reported that the provision for reinsurance "has the approval of private insurance companies who have long been interested in the development of a sound crop insurance program based on policies which are contained in the bill under consideration." S. Rep. No. 378, 80th Cong. (1947), reprinted in [1947] U.S. Code Cong. & Ad. News 1543. However, this authority to issue reinsurance has never been used.

Amendments in 1949,[29] 1953,[30] 1959,[31] and 1964[32] allowed the crop insurance program to grow by permitting new counties to be added to the program,[33] and by removing the requirement that at least 200 farms or one-third of the farms in the county that produce the insured commodity participate in the program.[34] By 1977, the Corporation was underwriting slightly over $2 billion worth of insurance on twenty-three commodities in 1,517 counties in thirty-nine states.[35] Yet, federal crop insurance was essentially still an experimental program.[36]

In the Food and Agriculture Act of 1977,[37] Congress repealed the disaster payments program for wheat, feed grains, cotton and rice, effective for the 1980 crops of these commodities, and directed the Secretary of Agriculture to "undertake an immediate study of alternative programs which could be established for an all-risk, all-crop insurance to help provide protection to those suffering crop

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S. Rep. 96-254, 96th Cong., 1st Sess. at 10 (1979) at states: "The authority [provided by the 1947 act] has never been used because of the 20 county limit. The private insurance industry, although expressing interest in crop insurance, has been reluctant to commit resources to an experimental effort that could at best be a pilot project in terms of magnitude, and that does not provide a sufficient base for dispersion of risk to build a sound reinsurance program."

[29] Pub. L. 268, 81st Cong., 63 Stat. 665 (1949).

[30] Pub. L. 261, 83rd Cong., 67 Stat. 575 (1953).

[31] Pub. L. 131, 86th Cong., 73 Stat. 278 (1959).

[32] Pub. L. 589, 88th Cong., 79 Stat. 933 (1964).

See Appendix C to H.R. Rep. 96-430, 96th Cong., 1st Sess. 91 (1979), which summarizes the amendments made to the Act from 1938 to 1977.

[33] Pub. L. 268, N. 29 *supra*, allowed the program to expand each year into no more than 50 percent of the number of counties specified in the 1947 Amendments. Pub. L. 261 N. 30 *supra*, permitted the program to expand into 100 additional counties each year. Pub. L. 589, N. 32 *supra*, increased the permissible expansion rate to 150 counties per year.

[34] Pub. L. 131, N. 31 *supra*.

[35] H.R. Rep. 95-772, 95th Cong., 1st Sess. [1977] U.S. Code Cong. & Ad. News 3623.

[36] In 1979, the Committee on Agriculture of the House of Representatives reporting on the legislation which, in effect, became the 1980 Amendments said: "The Federal Crop insurance program remains essentially a pilot program even though it was first established over 40 years ago." H.R. Rep. 96-430, 96th Cong., 1st Sess. 10 (1979).

[37] Pub. L. 95-113, Secs. 401, 501, 602, 702, 91 Stat. 923, 930, 936, 941 (1977).

losses in floods, drought, and other natural disasters . . ." and report the findings of this study to the President for transmission to the Congress by March 1, 1978.[38] However, Congress did not complete work on expanded crop insurance legislation until 1980,[39] and, in the meantime, had extended the disaster payment programs (including prevented planting programs) for wheat, feed grains, cotton and rice.[40]

The 1980 legislation contemplates a complete all-risk, all-crop program available nationwide which will, in an orderly manner, supplant the disaster programs for wheat, feed, grains, cotton and rice as well as provide financial protection from crop losses for other agricultural commodities.[41]

The major changes made by the 1980 amendments in the crop insurance program:

(1) removed the annual limits on expansion;[42]

(2) removed the county limit on reinsurance of private insurers and mandated a program of reinsurance;[43]

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[38] Pub. L. 95-181, Sec. 2, 91 Stat. 1373 (1977).

[39] Pub. L. 96-365, 94 Stat. 1312 (1980), 7 U.S.C. §§ 1501–1520.

[40] See Ns. 33–36 *supra*.

[41] The Federal Crop Insurance Act of 1980, Pub. L. 96-365, Secs. 101-112, 94 Stat. 1312, signed September 26, 1980; 7 U.S.C. §§ 1501–1520, as amended.

See also: H.R. Rep. 96-1272, 96th Cong., 2d Sess. (1980), the Report of the Conference on S.1125; H.R. Rep. 96-430, 96th Cong., 1st. Sess. (1979), the Report of the Committee on Agriculture of the House of Representatives on H.R. 4119; and S. Rep. 96-254, 96th Cong. 1st Sess. (1979), the Report of the Committee on Agriculture, Nutrition and Forestry of the Senate on S.1125. Part of the legislative history (the House Report and the Conference Report) is reprinted in [1980] U.S. Code. Cong. & Ad. News 3068–3091.

[42] *Ibid.*

See particularly, H.R. Rep. 96-430, 96th Cong., 1st Sess. 10 (1979); and S. Rep. 96-254, 96th Cong., 1st Sess. (1979).

The Committee on Agriculture of the House of Representatives said in part: "H.R. 4119 will, effective with the 1981 crop year, lift the restriction that the program operate only on an experimental basis and remove the 150 county and 3 commodity annual limits to expansion. This will enable FCIC to move quickly to expand the program to all agricultural counties and to all crops that are important to the agricultural income of an area." The House provisions were adopted in Conference. H.R. Rep. 96-1272, 96th Cong., 2d Sess. 14 (1980).

[43] N. 41 *supra*. See particularly H.R. Rep. 96-430, 96th Cong., 1st Sess. 13–15 (1979); and S. Rep. 96-254, 96th Cong., 1st Sess. 9–10 (1979). The provisions of

(3) required that the federal program offer various levels of coverage, including coverage of 50 percent and 75 percent of the recorded or appraised yield;[44]

(4) gave producers the option of obtaining commercial insurance coverage for losses due to hail and fire with a concomitant reduction in their federal crop insurance premium on exclusion of these risks from their federal policy; and[45]

(5) provided for payment by the corporation of 30 percent of a farmer's premiums on coverage up to a maximum of 65 percent of the recorded or appraised average yield.[46]

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the House bill were adopted in conference, H.R. Rep. 96-1272, 96th Cong., 2d Sess. 13 (1980). The conferees stated their intention "that the authority to contract with private insurance companies not be used to make any one insurance company the exclusive selling or servicing agent or servicing agent or underwriter for Federal crop insurance." *Ibid.*

[44] N. 41 *supra.* See particularly H.R. Rep. 96-430, 96th Cong., 1st Sess. 11 (1979); and S. Rep. 96-254, 96th Cong., 1st Sess. 8 (1979).

The Senate Committee provided for coverage of 75 percent of average yield to "guarantee the farmer an opportunity to purchase coverage sufficient to return his major operating expenses in the event of a disaster loss," and also required the corporation to offer insurance at lower levels of yield coverage to "increase the appeal of the program to farmers." The Conference adopted the Senate approach but also required that one of the lower levels of yield coverage offered be at 50 percent. H.R. Rep. 96-1272, 96th Cong., 2d Sess. 15 (1980).

[45] N. 41 *supra.*

See particularly, H.R. Rep. 96-430, 96th Cong., 1st Sess. 15 (1979) and H.R. Rep. 96-1272, 96th Cong., 2d Sess. 16 (1980).

The House Committee said in part: "This represents a compromise between the position of the private insurance companies and the position taken by many others in testimony before the Committee. The private insurance companies would delete from the crop insurance policy any provision for hail insurance because of concern that it would unfairly compete with hail insurance policies now being offered by private carriers. On the other hand, many witnesses were concerned that exclusion of hail insurance from the policy would reduce the attractiveness of the policy and contribute toward smaller producer participation in the program." H.R. Rep. 96-430, *supra.*

[46] N. 41 *supra.*

See particularly, H.R. Rep. 96-430, 96th Cong., 1st Sess. 11–13 (1979), and S. Rep. 96-254, 96th Cong., 1st Sess. 9 (1979).

The House Committee said in part: "This 30 percent premium subsidy is designed to bring insurance protection within the financial means of all farmers and

The coverage provided by federal crop insurance under the 1980 legislation has been criticized for not requiring the corporation to provide coverage for farmers unable to plant crops because of adverse weather, floods, or other natural disasters, even though the 1980 amendments permit the corporation to offer such specific risk protection.[47] The Agriculture and Food Act of 1981[48] complements the crop insurance program by providing that producers are not eligible for prevented planting or disaster payments if crop insurance is available for their crops, except disaster payments may be made if the Secretary determines that:

(1) the producers have suffered losses creating an economic emergency;

(2) crop insurance is insufficient to alleviate the economic emergency or non-existent because of transitional problems; and

(3) additional assistance must be made available to alleviate the economic emergency.[49]

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to guarantee sufficient participation in the program to make it successful." H.R. Rep. 96-430 *supra* at 12.

[47] 7 U.S.C. § 1508(g).

See H.R. Rep. 96-430, 96th Cong., 1st Sess. 94, 95 (1979) setting forth minority views of members who objected to the bill because it provided no assurance that prevented planting coverage would be offered by the corporation.

[48] Pub. L. 97-98, 95 Stat. 1213, signed December 22, 1981.

[49] See Pub. L. 97-98, Secs. 301 [wheat], 401 [feed grains], 502 [cotton] and 602 [rice], 95 Stat. 1213, signed December 22, 1981.

In the case of wheat the statute provides:

"(C) Producers on a farm shall not be eligible for disaster payments under this paragraph if crop insurance is available to them under the Federal Crop Insurance Act with respect to their wheat acreage.

"(D) Notwithstanding the provisions of subparagraph (C) of this paragraph, the Secretary may make disaster payments to producers on a farm under this paragraph whenever the Secretary determines that—

"(i) as the result of drought, flood, or other natural disaster, or other condition beyond the control of the producers, producers on a farm have suffered substantial losses of production either from being prevented from planting wheat or other nonconserving crop or from reduced yields, and that such losses have created an economic emergency for the producers;

"(ii) Federal crop insurance indemnity payments and other forms of assistance made available by the Federal Government to such producers for such

In addition to the significant substantive changes in the federal crop insurance program made by the 1980 amendments, the legislation also modified the Federal Crop Insurance Act in other respects. For example, membership on the Board of Directors of the Corporation was increased from five to seven members;[50] the concurrent jurisdiction of state courts over suits by or against the corporation was eliminated—exclusive jurisdiction is now in the United States district courts;[51] and obsolete provisions of the Act were deleted, such as provisions concerning payment of indemnities in kind and posting of lists of indemnity payments at the local courthouse.[52]

The 1980 legislation also provided new funding for the corporation by increasing the authorized capital stock from $200,000,000 to $500,000,000 and directing cancellation of old stock subscriptions by the Department of the Treasury, in effect, creating $500,000,000 of new capital for the corporation.[53] Limited use of the funds[54] of the Commodity Credit Corporation was also authorized and new borrowing authority under which notes can be issued to the Department of the Treasury of the United States was added.[55]

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losses are insufficient to alleviate such economic emergency, or no crop insurance covered the loss becuse of transitional problems attendant to the Federal crop insurance program; and

"(iii) additional assistance must be made available to such producers to alleviate the economic emergency.

"The Secretary may make such adjustments in the amount of payments made available under this subparagraph with respect to individual farms so as to assure the equitable allotment of such payments among producers taking into account other forms of Federal disaster assistance provided to the producers for the crop involved." 7 U.S.C. § 1445b-1(b)(1)(C), (D).

Similar provisions are included in each section cited above for feed grains, cotton and rice.

[50] 7 U.S.C. § 1505(a). See § 120A.02[1] *infra* for discussion of how the Board of Directors is appointed.

[51] 7 U.S.C. § 1506(d).

[52] S. Rep. 96-254, 96th Cong., 1st Sess. 15 (1979) and H.R. Rep. 96-430, 96th Cong., 1st Sess. 18 (1979) set out the rationale for eliminating these provisions.

[53] 7 U.S.C. § 1504(a).

[54] 7 U.S.C. § 1516(c).

[55] 7 U.S.C. § 1516(d).

§ 120A.02 Statutory Provisions

[1]—The Federal Crop Insurance Corporation

The Federal Crop Insurance Corporation is an agency of the Department of Agriculture that is responsible for devising and maintaining a sound system of crop insurance, as provided for by the Act.[1] The corporation is managed by a board of directors, subject to the supervision of the Secretary of Agriculture who, however, is neither an officer of the corporation nor a member of the board.[2]

The board is appointed by the Secretary and the members hold office at the pleasure of the Secretary, but three of the seven members are appointments *ex officio* from the staff of the Department of Agriculture:[3] the manager of the corporation, either the Undersecretary or Assistant Secretary of Agriculture, as the case may be, responsible for the federal crop insurance program and either the Undersecretary or Assistant Secretary, as the case may be, responsible for the farm credit program of the Department.[4] Of the other four members of the board, one must be "experienced in the crop insurance business [but] not otherwise employed by the Federal Government," and three must be farmers who are policy holders from different geographic areas of the United States.[5]

[a]—General Powers. The corporation has a number of general powers defined in the statute. In summary, these are:

(a) succession in its corporate name;[6]

(b) the right to a corporate seal, which must be judicially noticed;[7]

(c) the right to purchase or lease and hold real and personal property, and to dispose of the property;[8]

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[1] 7 U.S.C. §§ 1502, 1503.

[2] 7 U.S.C. § 1505(a).

[3] *Ibid.*

[4] *Ibid.*

See § 63.03 *supra* for an outline and discussion of the organization of the Department of Agriculture and the delegations of authority within the Department.

[5] 7 U.S.C. § 1505(a).

[6] 7 U.S.C. § 1506(a).

[7] 7 U.S.C. § 1506(b).

[8] 7 U.S.C. § 1506(c).

(d) the right to sue and be sued in its corporate name in the district courts of the United States, except that "no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Corporation or its property;"[9]

(e) the power to adopt, amend, and repeal bylaws, rules, and regulations governing the conduct of its business and the enjoyment of its powers;[10]

(f) the authority to use the United States mails in the same manner as other agencies of the United States;[11]

(g) the right to utilize the services, information, facilities, and personnel of other governmental agencies;[12]

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[9] 7 U.S.C. § 1506(d). This section also states:

> "The district courts of the United States, including the district courts of the District of Columbia and of any territory or possession, shall have exclusive original jurisdiction, without regard to the amount in controversy, of all suits brought by or against the Corporation. The Corporation may intervene in any court in any suit, action, or proceeding in which it has an interest."

Prior to the 1980 amendments, the Act stated that suit could be maintained by or against the Corporation "in any court of record of a State having general jurisdiction," as well as in the United States District Courts. Pub. L. 320, Sec. 7, 61 Stat. 718 (1947).

In Baker v. Federal Crop Insurance Corp., 407 P.2d 841, 845 (Or. 1965), the court held that the corporation could be held liable for an award of attorney's fees authorized against insurance companies under Oregon law. Although the court pointed out that the Act, as it then existed, authorized suit to be brought in state courts, the court relied principally on Sloan Shipyards Corp. v. United States, 258 U.S. 549 (1922), and Reconstruction Finance Corp. v. J.B. Menihan Corp., 312 U.S. 81 (1941) for the proposition "that the Supreme Court [has] made it unequivocally clear that the immunity of the United States for costs and other incidents of litigation [does] not extend to its corporate agencies." 407 P.2d at 845.

After the 1980 amendment giving the federal courts exclusive jurisdiction over claims against the FCIC, a suit brought improperly in the state court, but removed to the federal court was dismissed for lack of jurisdiction because the federal court's jurisdiction in such cases is considered derivative. Since the state court had no jurisdiction over the original suit, the federal court did not gain jurisdiction when the suit was removed to it even though it would have had jurisdiction if the case had originally been brought there. Leach v. Federal Crop Insurance Corp., 741 F.2d 200 (8th Cir. 1984).

[10] 7 U.S.C. § 1506(e). Copies of the current bylaws of the corporation are available from the Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

[11] 7 U.S.C. § 1506(f).

(h) the mandate to assemble data to establish an actuarial base for crop insurance;[13]

(i) the power to determine the character of and necessity for expenditures without regard to other laws governing the expenditure of public funds;[14]

(j) all other powers "necessary or appropriate" for the exercise of the enumerated powers and all "such incidental powers as are customary in corporations generally;"[15] and

(k) the right to contract in its business unhindered by state and local laws and rules, to the extent that its contracts provide that state and local laws and rules shall not apply, or to the extent state and local laws and rules are inconsistent with the contracts.[16]

In addition to the powers enumerated above, the Act confers special characteristics on the corporation and its operations. For example, claims for indemnities are "not liable to attachment, levy, garnishment, or any other legal process before payment to the insured" and no claims of the United States may be deducted from claims for indemnities unless they arise out of the crop insurance program.[17] The corporation, "including its income and its property" is exempt from all taxation imposed by the United States, or by any State, county, municipality or local taxing authority.[18]

[b]—Specific Powers to Issue Crop Insurance

[*i*]—*Insurable Crops and Causes of Loss.* In general the corporation is empowered, if "sufficient actuarial data are available," to insure producers of agricultural commodities grown in the United States against loss while the commodity "is in the field."[19] The ag-

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[12] 7 U.S.C. § 1506(g).

[13] 7 U.S.C. § 1506(h).

[14] 7 U.S.C. § 1506(i).

[15] 7 U.S.C. § 1506(j).

[16] 7 U.S.C. § 1506(k).

[17] 7 U.S.C. § 1509.

[18] 7 U.S.C. § 1511. See § 90.02[4] *supra*, for discussion of similar tax treatment afforded the Commodity Credit Corporation.

[19] 7 U.S.C. § 1508(a).

ricultural commodities specifically mentioned in the statute are "wheat, cotton, flax, corn, dry beans, oats, barley, rye, tobacco, rice, peanuts, soybeans, sugar beets, sugar cane, tomatoes, grain sorghum, sunflowers, raisins, oranges, sweet corn, dry peas, freezing and canning peas, forage, apples, grapes, potatoes, timber and forests, nursery crops, citrus, and other fruits and vegetables, nuts, tame hay, native grass, aquacultural species . . ., or any other agricultural commodity, excluding livestock and stored grain, determined by the Board . . .."[20]

Crop insurance may be issued "against loss of the insured commodity due to unavoidable causes, including drought, flood, hail, wind, frost, winterkill, lightning, fire, excessive rain, snow, wildlife, hurricane, tornado, insect infestation, plant disease, and such other unavoidable causes as may be determined by the Board."[21] Thus, the board of directors has broad authority to offer insurance for nearly every conceivable crop or commodity from all types of "unavoidable causes" as long as "sufficient actuarial data are available, as determined by the Board."[22]

[*ii*]—*Amount Of Coverage Available.* The Act limits the amount of protection to be afforded by federal crop insurance to no more than 75 percent of the adjusted recorded or appraised yield of the commodity on the insured farm.[23] The statute requires the corporation to make available levels of yield coverage below 75

The rule that insurance may be provided only while the crop is in the field does not apply to tobacco, because most tobacco must be conditioned or cured in barns before being marketed. *Ibid.*

In the case of aquaculture, the term "field" means the environment in which the commodity (i.e. "finfish, mollusk, crustacean, or other aquatic invertebrate, amphibean, reptile or aquatic plant propogated or reared in a controlled or selected environment" as per 7 U.S.C. § 1518) is produced. 7 U.S.C. § 1508(a).

[20] 7 U.S.C. § 1518.

Beginning in 1982, the Federal Crop Insurance Corporation revised the regulations and policies for most crops. Some of the regulations and policies have been published as interim rules by the corporation. The latest version of any crop insurance policy should be examined when researching crop insurance questions. See § 120A.03[1], N. 3 *infra.*

[21] 7 U.S.C. § 1508(a).

[22] *Ibid.*

[23] *Ibid.*

percent but only requires that two levels of yield coverage be available for an insured crop–at 50 percent and 75 percent.[24] Moreover, the law also provides for subsidization of 30 percent of each farmer's premium up to a level of coverage equal to 65 percent of the adjusted yield for the commodity on the insured farm.[25] Although coverage of 65 percent of yield is not required by the Act, the 65 percent level of coverage should prove popular because it provides the maximum subsidized coverage available under the Act.[26]

The Act uses the "yield of the commodity on the insured farm for a representative period" to determine the extent of the insurance protection provided by the policy, but also allows the board to adjust individual yields, as may be fair and just, on the basis of "the average yields fixed for farms in the same area, which are subject to the same conditions. . . ."[27]

For most crops, the prices at which indemnities are computed change from year to year, and from area to area, and various price level options are offered that can only be found in the applicable county actuarial tables.[28] However, the corporation must offer one price election that "approximate(s) (but be not less than 90 per centum of) the projected market price for the commodity involved as determined by the Board."[29]

[*iii*]—*Limitations on Coverage.* Crop insurance does not cover losses due to the "neglect or malfeasance" of the farmer; losses from failure to reseed when reseeding would be customary; or

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[24] *Ibid.*

[25] 7 U.S.C. § 1508(b).

[26] *Ibid.*

[27] 7 U.S.C. § 1508(a).

The 1980 amendments require that a pilot program of individual risk underwriting be undertaken in not less than 25 counties during the 1981–1985 crop years to try out personalized rates, and guarantees determined from the producer's actual yield history. 7 U.S.C. § 1508(i), as amended by Pub. L. 96-365, Title I, Secs. 105, 106, 107(b), 94 Stat. 1314, 1315, 1317 (1980).

The final rule providing for individual yield coverage is 7 C.F.R §§ 400.15–400.21, 48 Fed. Reg. 53993 (November 30, 1983). See also § 120A.02, Ns. 65–71 *infra.*

[28] See, e.g. Florida citrus insurance regulations, 7 C.F.R. § 410.2; pea crop insurance regulations, 7 C.F.R. § 416.2; wheat crop insurance regulations, 7 C.F.R. § 418.2; and peanut crop insurance regulations, 7 C.F.R. § 425.2.

[29] 7 U.S.C. § 1508(a).

losses from the farmer's failure to follow established good farming practices.[30] Insurance may be limited, or refused to, any county, area, or farmer for a commodity that would be a high risk in such a location.[31]

No insurance can be offered for a particular commodity in a county if the Board determines that the income from that commodity is an unimportant part of the total agricultural income from the county, except that insurance may be provided for farms "situated in a local producing area bordering on a county with a crop-insurance program."[32]

[iv]—*Payment of Premiums.* In general, premiums are to be fixed at "such rates as the Board deems actuarially sufficient to cover claims for losses on such insurance and to establish as expeditiously as possible a reasonable reserve against unforeseen losses."[33]

Premiums are collectable and securable at such times and in such manner as the board of directors of the corporation may prescribe.[34] To encourage participation, 30 percent of each producer's premium, up to a maximum coverge of 65 percent of adjusted yields of covered crop, must be paid by the corporation.[35] The corporation is authorized to enter into agreements with states or state agencies under which additional premium subsidies may be paid by the state or agency to further reduce premiums for farmers in the state.[36]

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[30] *Ibid.*

[31] *Ibid.*

[32] *Ibid.*

[33] 7 U.S.C. § 1508(b)(1).

The Report of the Committee on Agriculture of the House of Representatives states that:

> "From 1948 through 1978, the Corporation operated at a .99 loss ratio. Premiums earned during this period amounted to $1,158,511,000.00 while indemnities paid totalled $1,144,084,000.00. The total amount of farmer's crop investments protected by Federal crop insurance policies in 1978 amounted to nearly $2 billion. Fifteen of the 26 crops insured have a favorable premium balance since 1948, while loss payments exceeded premium for 11 crops during the period." H.R. Rep. 96-430, 96th Cong., 1st Sess. 10 (1979).

In any one year, however, results may be far different from the average. In fiscal year 1980, for example, the Corporation's Annual Report to Congress showed that:

> "The loss ratio is currently estimated to reach 2.40; that is, for every $1.00 premium collected, $2.40 will be paid out for crop losses." Annual Report to Congress—1980, Federal Crop Insurance Corporation, Department of Agriculture, p. 1.

[34] 7 U.S.C. § 1508(b)(4).

Because of the growth of commercial fire and hail crop insurance, the Act permits producers to elect to have fire and hail coverage deleted from their federal policy.[37] Farmers who obtain commercial fire and hail insurance in a dollar amount not less than that provided by the corporation's insurance policy can have their federal crop insurance premium reduced "by an amount equal to 40 percent of the prevailing average county hail and fire insurance premium charged by other than federal insurers for the dollar amount of the coverage provided by the corporation's policy of insurance."[38] The reduction in the farmer's premium may not be less than 15 percent or more than 30 percent.[39] The preceding provisions notwithstanding, the reduction in the farmer's premium cannot exceed the premium charged by the farmer's commercial insurer for fire and hail coverage of a dollar amount equal to that provided by the corporation's insurance policy.[40]

[*v*]—*Payment of Claims.* The corporation is authorized to adjust and pay claims for losses under rules prescribed by the Board, and if a claim is denied, suit may be brought in the United States district court "for the district in which the insured farm is located."[41] Suit on a claim must be brought "within one year after the date when notice of denial of the claim is mailed to and received by the claimant."[42]

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[35] See text at Ns. 25, 26 *supra.*

[36] 7 U.S.C. § 1508(b)(5).

[37] 7 U.S.C. § 1508(b)(2).

[38] *Ibid.*

[39] *Ibid.*

[40] *Ibid.*

Any premium reduction that exceeds the amount the corporation determines it would have to charge for providing equivalent fire and hail insurance is deemed paid by the corporation *Ibid.*

[41] 7 U.S.C. § 1508(c). See also N. 9 *supra.*

[42] *Ibid.* In Godbold v. Federal Crop Insurance Corp., 365 F. Supp. 836 (N.D. Miss. 1973), the court held that the "one-year limitation is unequivocal, and a dissatisfied claimant must adhere to it strictly." *Id.* at 838. The court, citing Simon v.

[*vi*]—*Insurance for Minors.* The corporation is empowered to contract for crop insurance with persons over 18 but less than 21 years of age who have a bona fide insurable interest in a crop, provided that the person entering into the contract shall be subject to the same legal liabilities and have the same legal rights with respect to such contracts as any person over the age of twenty-one years."[43]

[*vii*]—*Reinsurance.* The Act directs the Corporation to provide reinsurance "to the maximum extent practicable" to insurers, reinsurers, or state or local governmental entities, that insure producers of any agricultural commodity under a plan or plans acceptable to the corporation.[44] Whenever reinsurance is provided, the corporation is authorized to subsidize 30 percent of the premiums paid by the insured farmers, and to pay operating and administrative costs to the same extent as the costs are covered by the Corpo-

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United States, 244 F.2d 703, 704 (5th Cir. 1957), held that where the sovereign creates a cause of action by statute and consents to be sued upon it, making clear that the consent is conditional on timely filing, then exact compliance with the terms of consent is a condition precedent to the suit.

Not only must suit be timely filed, but notice of loss must be submitted within the time specified in the crop insurance policy. See, e.g., Byrne v. Federal Crop Insurance Corp., 289 F. Supp. 873 (D. Minn. 1968); Roberts v. Federal Crop Insurance Corp., 158 F. Supp. 688, 694 (E.D. Wash. 1958); United States v. Blackburn, 109 F. Supp. 319 (E.D. Mo. 1952). The need for timely filing was established in earlier Court of Appeals decisions in Mock v. United States, 183 F.2d 174 (10th Cir. 1950) and Felder v. Federal Crop Insurance Corp., 146 F.2d 638, 640 (4th Cir. 1945).

Cf. Knisely v. Federal Crop Insurance Corp., 334 F. Supp. 425, 429 (S.D. Ohio 1971), where the court said that it "believes a requirement of reasonableness must be read into the language [of the contract specifying that claims be filed within 60 days]" and that the defendant corporation "must show there is a reasonable connection between plaintiff's failure to hew strictly to procedural requirements and the ultimate prejudice to the Corporation." The court concluded that the corporation was not prejudiced by the untimely filing, which was four weeks late, and ordered the corporation to reimburse the plaintiff for the damaged crops.

[43] 7 U.S.C. § 1520.

[44] 7 U.S.C. 1508(e).

The Corporation published the amended Standard Reinsurance Agreement, and Amendment No. 1—Treaty Surplus Share in the Federal Register. 46 Fed. Reg. 42305, August 20, 1981, reprinted in Appendix 120A-C *infra*.

ration on policies issued by the Corporation.[45]

[*viii*]—*Other Provisions.* The Act contains a number of special authorizations and directives pertaining to insurance programs of the Corporation. For example:

(a) provision must be made for coverage of the value of cottonseed by payment of additional premiums and indemnities on lint cotton;[46]

(b) the corporation may offer specific risk protection programs, including programs to cover losses from prevented planting, wildlife depredation, tree damage and disease, and insect infestation, except that no specific risk program may be undertaken if commercial insurance protection against the risk is generally available;[47]

(c) the corporation is authorized to include appreciation (including interest charges) as an insurable cost of production in calculating premiums and indemnities on yields of timber and forests;[48] and

(d) the corporation may conduct research surveys, pilot programs, and investigations relative to crop insurance and agriculture-related risks and losses.[49]

[2]—Administration of Federal Crop Insurance

[a]—Personnel. The Act empowers the Secretary of Agriculture to appoint officers and employees necessary for the transaction of the corporation's business, and delegate to them such powers of the corporation that the Secretary deems appropriate.[50] Except for personnel paid by the hour, day or month when actually employed, such as sales personnel and those serving on county crop insurance committees, the corporation's personnel are employed and compensated in accordance with the civil-service laws and regulations.[51] All personnel, including part time employees, are covered by the federal employees compensation laws in the event of injuries incurred while in the performance of their duties.[52]

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[45] 7 U.S.C. § 1508(e).

The standard form of reinsurance agreement provides in part: "Any restrictions or conditions on eligibility for subsidy imposed on producers insured directly by the Federal Crop Insurance Corporation shall apply to this agreement." Section V, Standard Reinsurance Agreement, 46 Fed. Reg. 42307 (August 20, 1981), reprinted in Appendix 120A-C *infra.*

[46] 7 U.S.C. § 1508(d).

[47] 7 U.S.C. § 1508(g).

[48] 7 U.S.C. § 1508(h).

[49] 7 U.S.C. § 1508(i).

[50] 7 U.S.C. § 1507(a).

The Act requires the board of directors "to the maximum extent possible, (1) establish or use committees or associations of producers and make payments to them to cover the administrative and program expenses, . . .incurred by them . . ., (2) contract with private insurance companies and reimburse such companies for the administrative and program expenses . . .incurred by them . . ., and (3) encourage the sale of Federal crop insurance through licensed private insurance agents and brokers . . . ."[53] In contrast with these provisions, which encourage development of an independent delivery system for Federal crop insurance, the Act also charges the board of directors to use "to the maximum extent possible, the resources, data, boards, and the committees of (1) the Soil Conservation Service . . .(2) the Forest Service . . .(3) the Agricultural Stabilization and Conservation Service . . . and (4) other

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[51] *Ibid.*

The number of corporation employees has been limited as follows:

"The Corporation may not employ more than two hundred additional permanent full-time employees, in excess of the number of full-time employees employed by the Corporation on the effective date of the Federal Crop Insurance Act of 1980, to implement the provisions of this chapter, except in the case of, and only during, emergencies." 7 U.S.C. § 1516(a).

[52] 7 U.S.C. 1507(b).

[53] 7 U.S.C. § 1507(c).

To foster direct sales of federal crop insurance through licensed private insurance agents and brokers, the Act provides that the corporation "give the insured the right to renew such insurance for successive terms through such agents and brokers, in which case the agent or broker shall be reasonably compensated from premiums paid by the insured for such sales and renewals . . . " *Ibid.*

Moreover, the Act requires the board to "provide such agents and brokers with indemnification, including costs and reasonable attorney fees, from the corporation for errors or omissions on the part of the Corporation or its contractors for which the agent or broker is sued or held liable, except to the extent the agent or broker has caused the error or omission." *Ibid.*

For further discussion of reinsurance see § 120A.05 *infra*, and the standard "Agency Sales and Service Contract" reprinted in Appendix 120A-D *infra*.

Federal Agencies . . . ."[54]

If the Secretary of Agriculture allots the corporation's funds to other offices of the Department of Agriculture or to other federal government agencies, or to state agencies, any such employees or agencies designated by the corporation to carry out the crop insurance program are responsible directly to the corporation without the intervention of any intermediate office or agency.[55]

The board of directors may also utilize producer-owned and producer-controlled cooperative associations to carry out the crop insurance program.[56]

[b]—Funding. Funding for the crop insurance program is derived from three sources. The first and primary source is $500 million in capital from stock subscribed by the United States.[57] In the 1980 amendments to the Act, Congress authorized cancellation of old receipts issued by the corporation to the United States Treasury for the purchase of the corporation's stock, thus creating a new $500 million capital fund for operations commencing in fiscal year 1981.[58]

The second principal source of funds is premium income derived from the sale of crop insurance. In federal fiscal year 1980 [October 1, 1979 to September 30, 1980] the corporation received $103 million in premium income.[59]

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[54] 7 U.S.C. § 1507(f).

To allow the corporation to utilize the resources of other bureaus and offices of the Department of Agriculture, the Act authorizes the transfer of funds to such bureaus and offices. 7 U.S.C. § 1507(d). See text at N. 55 *infra.*

The Report of the Committee on Agriculture of the House of Representatives, commenting on the delivery system for federal crop insurance, said in part:

> "It is anticipated that farmers across the nation will be able to purchase Federal crop insurance in their local ASCS office so as to minimize inconvenience and travel. Additionally, the sales talents and experience of private sector commissioned agents and insurance companies, through contracts for delivery and reinsurance arrangements, are essential to fulfilling the goals of nationwide, generally accepted all-risk insurance protection." H.R. Rep. 96-430, 96th Cong., 1st Sess. 12, 13 (1979).

[55] 7 U.S.C. § 1507(d).

[56] 7 U.S.C. § 1507(e).

Agricultural cooperatives are the subject of Volume 14 *infra.*

[57] 7 U.S.C. § 1504(a).

[58] 7 U.S.C. § 1504(d).

In addition to the capital funds and the premium income primarily available for disbursement to cover crop losses, the third source of funds, direct appropriations authorized by the Act, covers such items of administrative expense as agents' and brokers' commissions, interest on treasury notes, partial premium payments by the Corporation [premium subsidies] and the direct cost of loss adjusters.[60] Some of these costs may be advanced from premium income to be restored by appropriation in subsequent years.[61]

In addition to these basic resources, the corporation also has authority to issue notes or other obligations to the Secretary of the Treasury, if at any time the funds otherwise available to the corporation are insufficient to enable the corporation to indemnify producers for insured crop losses.[62] Redemption of these notes or obligations must be made from premiums or by issuance of capital stock.[63] The borrowing authority granted by the Act may, however, be utilized only to the extent provided in appropriation Acts.[64]

[c]—Administrative Policy and Procedure. The Federal Crop Insurance Corporation not only issues regulations governing the terms of specific policies of insurance on various kinds of crops,[65] but also specifies by regulation and public notice, general operating procedures that are applicable to the conduct of the corporation's business.[66] The corporation has provided by general regulation applicable to many annual crops for late planting agreements.[67] Under these optional agreements, farmers may still receive crop insurance even though the crop involved has not been planted by the usual cut-off date for writing insurance on that crop.[68] The amount of the insurance is, however, reduced ten percent for each five days the planting is delayed past the specified planting date for the crop in the county.[69]

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[59] Table 3, Annual Report to Congress—1980, Federal Crop Insurance Corporation, issued by the Federal Crop Insurance Corporation, Department of Agriculture, Washington, D.C. 20250.

[60] 7 U.S.C. § 1516(a).

[61] *Ibid.*

[62] 7 U.S.C. § 1516(d).

[63] *Ibid.*

[64] *Ibid.*

7 U.S.C. § 1516(c)(1) authorized use of Commodity Credit Corporation funds, but also provided that the authority would expire one year after the date on which it was first used. Since this authority was used immediately after enactment of the statute in September, 1980, it has now expired.

7 U.S.C. § 1516(d) made the authority to borrow from the Treasury permissive rather than mandatory. See H.R. Rep. 96-1272, 96th Cong., 2d Sess. (1980).

[65] See § 120A.03 *infra*, for crop regulations and insurance policy provisions.

The corporation, under similar general procedural regulations, has provided for Individual Yield Coverage Plans (IYCP).[70] Under this program, farmers insured by the Federal Crop Insurance Corporation may, if they are located in areas where IYCP coverage is available for a particular crop, have any crop losses they experience measured against their own yield history for that kind of crop, rather than against the usual production guarantees or other baseline protection of the policies.[71] Other matters covered by the general administrative regulations and notices include a new application form;[72] information collection requirements;[73] policy statements relating to the collection of dishonored negotiable instruments;[74] and appeal procedures available to contest claims of the corporation against individuals for overpaid indemnities or unpaid premiums.[75]

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[66] These general regulations are published in 7 C.F.R. Part 400 or as agency notices in the Federal Register.

[67] 7 C.F.R. §§ 400.1–400.5, 48 Fed. Reg. 1021 (January 10, 1983), affirmed 49 Fed. Reg. 6319 (February 21, 1984), as corrected 49 Fed. Reg. 9407 (March 13, 1984). The annual crops covered by the late planting option program are listed in the regulation and include wheat, corn, barley, grain sorghum, rye, oats, soybeans, cotton, rice, peanuts, tobacco, tomatoes and popcorn. 7 C.F.R. § 400.4. See also the final rule on the late planting option effective for the 1984 crop year in 7 C.F.R. Part 400, 49 Fed. Reg. 35071 (September 6, 1984). The late planting option should not be confused with Preventive Planting Insurance discussed in § 120A.03[1], N. 3 *infra.*

[68] See the option form in 7 C.F.R. § 400.5, 49 Fed. Reg. 6320 (February 21, 1984).

[69] *Ibid.*

[70] 7 C.F.R. §§ 400.15–400.21, 48 Fed. Reg. 53993 (November 30, 1983).

[71] 7 C.F.R. § 400.19, 48 Fed. Reg. 53994 (November 30, 1984). This coverage was available on corn, grain sorghum, oats, wheat, barley, and soybeans in 1983. For 1984 and succeeding crop years, it will also be available on cotton, dry beans, flax, rice, rye, and sunflowers.

[72] 7 C.F.R. § 400.38, 49 Fed. Reg. 6316 (February 21, 1984).

[73] 7 C.F.R. §§ 400.65 and 400.66, 49 Fed. Reg. 7795 (March 2, 1984).

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[74] See the agency notice in 48 Fed. Reg. 36870 (August 15, 1983) announcing the imposition of a $10.00 fee to be charged for dishonored checks, etc.

[75] The appeal is to the District Director or the Director of Operations of the Kansas City Operations Office of the corporation. An appeal must be in writing and received at the Kansas City office within 20 days of the date of notification of indebtedness. The procedure provides for an informal hearing on request or a determination on written submission alone if that is preferred. See the agency notice in 48 Fed. Reg. 30169 (June 30, 1983) for a full statement of the applicable procedures.

§ 120A.03 Regulatory and Contractual Provisions

[1]—In General—Scope

In fiscal year 1980, the corporation wrote insurance on twenty-seven different crops.[1] The corporation also insured so-called combined crops in a limited number of counties in North Dakota.[2] The Corporation has issued individual regulations for each agricultural commodity insured. A few commodities, such as tobacco, citrus, and apples, have more than one regulation to reflect differences in production areas or variations in the basis of the insurance.[3] How-

(*Text continued on page 120A-31*)

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[1] Table 6, Annual Report to Congress—1980, Federal Crop Insurance Corporation, published by the Federal Crop Insurance Corporation, Department of Agriculture, Washington, D.C. 20250.

[2] The corporation has determined that no new applications for combined crop insurance (i.e. insurance under one policy covering all of the various crops specified in the policies) will be accepted starting with the 1981 crop year. The program will be continued only for producers in seven counties in North Dakota who wish to continue to insure their crops under their continuous combined crop insurance contracts. 44 Fed. Reg. 68431 (Nov. 29, 1979).

[3] In general, the corporation assigns one part of the Code of Federal Regulations to each agricultural commodity insured. However, superseded parts are preserved whenever appropriate to cover prior crop years for which policies may still be in effect.

New regulations and new crop insurance policies were issued by the corporation in 1982. The revisions have continued in 1983, 1984 and 1985 and will eventually change all the crop insurance policies issued. In general, the changes modify the policies to:

(1) add provisions relating to losses by fire;
(2) prescribe new interest rates on delayed premiums;
(3) require notices of probable loss to be filed and that representative samples of unharvested crops be left for examination;
(4) use actual production history as a measure against which losses may be determined for many crops and require that actual production records be furnished;
(5) add unavoidable failure of irrigation water as a cause of loss;
(6) change the method of computation of indemnities when acreage, share or practice has been underreported;
(7) eliminate the use of Appendix A, the schedule of counties where insurance for the particular crop is offered and to provide that such information can be obtained from local FCIC offices; and
(8) simplify the wording of the policies.

The changes being made in the terms of the policies, and the fact that not all policies have been changed for all crop years, mean that one should be certain that the correct policy is at hand when researching a question on Federal Crop Insurance.

As of April 15, 1985, recently revised or newly issued crop insurance policies had been issued for the following:

Crop	Crop Year Policy	7 C.F.R. Part No.	Federal Register Citation
Almonds	1984	439	49 Fed. Reg. 3969 (February 1, 1984)
Apples (Eastern)	1984	408	49 Fed. Reg. 6320 (February 21, 1984)
	1985	408	50 Fed. Reg. 7726 (February 26, 1985)
Apples (Western)	1984	404	49 Fed. Reg. 1877 (January 16, 1984)
Barley	1984	419	49 Fed. Reg. 4359 (February 6, 1984)
	1985	419	49 Fed. Reg. 46341 (November 26, 1984)
Citrus (Ariz. & Cal.)	1985	409	49 Fed. Reg. 6326 (February 21, 1984)
Citrus (Florida)	1984	410	49 Fed. Reg. 6330 (February 21, 1984)
Citrus (Texas)	1984	413	49 Fed. Reg. 867 (January 1, 1984), corrected 49 Fed. Reg. 9407 (March 13, 1984)
	1986	413	49 Fed. Reg. 47589 (December 6, 1984)
Citrus Trees (Texas)	1984	440 (new)	49 Fed. Reg. 13671 (April 6, 1984), corrected 50 Fed. Reg. 9609 (March 11, 1985)
Combined Crops	1984	426	49 Fed. Reg. 7351 (February 29, 1984)
Corn	1983	432	49 Fed. Reg. 10541 (March 24, 1984)
	1984	432	49 Fed. Reg. 20632 (May 16, 1984), amended 49 Fed. Reg. 47821 (December 7, 1984)
	1985	432	49 Fed. Reg. 49073 (December 18, 1984)

Crop	Crop Year Policy	7 C.F.R. Part No.	Federal Register Citation
Corn, Sweet	1985	437	50 Fed. Reg. 1824 (January 14, 1985)
Corn, Sweet Fresh Market	1985	449 (new)	50 Fed. Reg. 4629 (February 1, 1985)
Cotton	1984	421	49 Fed. Reg. 871 (January 6, 1984), amended 49 Fed. Reg. 47821 (December 7, 1984)
	1985	421	49 Fed. Reg. 49058 (December 18, 1984)
Dry Beans	1984	433	49 Fed. Reg. 6354 (February 21, 1984)
	1986	433	50 Fed. Reg. 10202 (March 14, 1985)
Extra Long Staple Cotton	1985	448 (new)	50 Fed. Reg. 9263 (March 7, 1985)
Flax	1984	423	49 Fed. Reg. 3965 (February 1, 1984)
Forage (Production)	1984	415	49 Fed. Reg. 1981 (January 16, 1984)
Forage (Seeding)	1984	414	49 Fed. Reg. 6334 (February 21, 1984)
Grain Sorghum	1984	420	48 Fed. Reg. 55411 (December 13, 1984), amended for 1983 crop only 49 Fed. Reg. 24007 (June 11, 1984) amended for 1985 crop 49 Fed. Reg. 47821 (December 7, 1984)
	1985	420	49 Fed. Reg. 49053 (December 18, 1984)
Grapes	1984	411	49 Fed. Reg. 26189 (June 27, 1984),
Grapes, Table	1984	441 (new)	49 Fed. Reg. 26555 (June 26, 1984) amended 49 Fed. Reg. 44985 (November 14, 1984)
Hybrid Seed	1983	443	49 Fed. Reg. 6358 (February 21, 1984)
	1985	443	50 Fed. Reg. 4625 (February 1, 1985)

Crop	Crop Year Policy	7 C.F.R. Part No.	Federal Register Citation
Oats	1984	427	49 Fed. Reg. 11801 (March 28, 1984)
	1985	427	49 Fed. Reg. 40777 (October 18, 1984)
Peas	1984	416	49 Fed. Reg. 4187 (February 3, 1984)
	1986	416	50 Fed. Reg. 7728 (February 26, 1985)
Peaches	1984	403	48 Fed. Reg. 55547 (December 14, 1983)
Peanuts	1984	425	49 Fed. Reg. 6344 (February 21, 1984), amended 49 Fed. Reg. 47821 (December 7, 1984), 49 Fed. Reg. 49280 (December 19, 1984), 50 Fed. Reg. 2039 (January 15, 1985)
	1985	425	49 Fed. Reg. 49067 (December 18, 1984)
Peppers	1984	445	49 Fed. Reg. 3835 (January 31, 1984)
	1985	445	49 Fed. Reg. 47590 (December 6, 1984)
Popcorn	1984	447	49 Fed. Reg. 14078 (April 10, 1984)
Popcorn	1986	447	50 Fed. Reg. 7737 (February 26, 1985)
Potatoes	1984	422	49 Fed. Reg. 7213 (February 28, 1984), amended 49 Fed. Reg. 46346 (November 26, 1984)
Prevented Planting Insurance	1984	442 (new)	48 Fed. Reg. 55418 (December 13, 1983) corrected, 49 Fed. Reg. 2225 (January 19, 1984)
Raisins	1984	402	49 Fed. Reg. 29559 (July 23, 1984) corrected, 49 Fed. Reg. 34345 (August 30, 1984)

Crop	Crop Year Policy	7 C.F.R. Part No.	Federal Register Citation
Rice	1984	424	49 Fed. Reg. 4191 (February 3, 1984)
Rice	1985	424	49 Fed. Reg. 49063 (December 18, 1984)
Rye	1985	429	49 Fed. Reg. 4443 (November 7, 1984)
Soybeans	1983	431	49 Fed. Reg. 12187 (March 29, 1984)
	1984	431	49 Fed. Reg. 26192 (June 27, 1984) amended 49 Fed. Reg. 41009 (October 19, 1984) 49 Fed. Reg. 47821 (December 7, 1984)
	1985	431	49 Fed. Reg. 50156 (December 27, 1984)
Sugar Beets	1983	430	49 Fed. Reg. 13001 (April 2, 1984)
Sugarcane	1983	417	49 Fed. Reg. 12186 (March 29, 1984)
	1985	417	49 Fed. Reg. 22248 (May 29, 1984)
Sunflowers	1984	428	49 Fed. Reg. 6349 (February 21, 1984)
Tobacco (Dollar Plan)	1985	434	50 Fed. Reg. 1814 (January 14, 1985)
Tobacco (Quota Plan)	1984	435	49 Fed. Reg. 26197 (June 27, 1984)
Tobacco (Quota Plan)	1985	435	50 Fed. Reg. 2950 (January 23, 1985)
Tobacco (Guaranteed Plan)	1984	436	49 Fed. Reg. 26551 (June 28, 1984)
Tomatoes (Fresh)	1984	444 (new)	49 Fed. Reg. 3973 (February 1, 1984)
	1985	444	49 Fed. Reg. 39512 (October 9, 1984)
Tomatoes, Canning and Processing	1986	438	7 C.F.R. 7732 (February 26, 1985)
Walnuts	1984	446	49 Fed. Reg. 27129 (July 2, 1984)
Wheat	1985	418	49 Fed. Reg. 46337 (November 26, 1984)

7 C.F.R. Parts 401 (generalized policy provisions); 405 (crop insurance on cherries) and 407 (crop insurance on Tung Nuts) have been removed from the Code of

ever, the regulations covering the different commodities have a number of common terms and conditions which are treated collectively in this section. In general, each regulation also has terms and conditions that are specifically tailored to the particular commodity covered by the policy.[4] A discussion of some of the provisions that specifically concern the most frequently insured crops is included below.[5]

[2]—Regulatory Provisions Common to Many Crops

The regulations issued by the corporation usually contain a number of provisions that are substantially repeated in each set of crop insurance regulations. These are as follows:

[a]—Availability of the Insurance. This provision usually specifies that insurance for the crop will be issued "within the limits prescribed by and in accordance with the provisions of the [Act]" in counties designated by the manager of the corporation from a list of counties approved by the board of directors.[6]

Federal Regulations as obsolete. See 50 Fed. Reg. 1814 (January 14, 1985); 49 Fed. Reg. 28037 (July 10, 1984); and 49 Fed. Reg. 46337 (November 26, 1984), respectively.

All of the C.F.R. listed above were amended by 50 Fed. Reg. 7906 (February 27, 1985) to provide for payment of interest on indemnities. See § 120A.03[3], N. 52 *infra*.

[4] See, e.g., Arizona–California Citrus Crop Insurance regulations, particularly the application and policy provisions at 7 C.F.R. § 409.7 and note the difference from Wheat Crop Insurance regulations, at 7 C.F.R. § 418.7.

[5] Table 6, Annual Report to Congress—1980, Federal Crop Insurance Corporation, N. 2 *supra* lists the number of policies for each crop insured with the corporation.

[6] The corporation has eliminated the use of an appendix to the policies to designate the counties where insurance is to be made available for a particular crop. The corporation's service offices now make this information available to interested persons. While policies are available only during specified periods for particular crops during the applicable crop year, the sales periods are often extended because of weather conditions or other factors that make such action appropriate. See, e.g., 50 Fed. Reg. 9981 (March 13, 1985) extending the sales closing date for peanuts; 50 Fed. Reg. 9609 (March 11, 1985) extending the date for Arizona-California citrus; and 50 Fed. Reg. 1205 (January 10, 1985) extending the sales closing date for Eastern apples. There are regulations governing the availability of crop insurance for each of the various commodities. See, e.g., 7 C.F.R. §§ 408 1 (Eastern

[b]—Premium Rates, Coverage and Price Levels for Indemnities. In general, the standard provision authorizes the manager of the corporation to establish premium rates, production guarantees, if applicable, coverage levels and prices for the computation of indemnities which are then shown on the county actuarial tables for the crop and which may be changed from year to year.[7] The provision usually requires the applicant to elect a coverage level and indemnity price option from the county table when the application for insurance is filed.[8]

[c]—Public Notice of Indemnities Paid. This provision, which requires the annual public posting at local county courthouses of the indemnities paid to farmers in each county, is now obsolete and has been eliminated from later revisions of the regulations.[9]

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apples); 411.1 (grapes); 432.1 (corn). See Appendix 120A-A for examples of typical language used in these regulations. See also § 120A.03[1], N. 3 *supra*.

[7] There are regulations governing premium rates, coverage, production guarantees and price levels for indemnities for each of the commodities. See, e.g., 7 C.F.R. §§ 414.2 (forage seeding); 409.2 (California orange crop); 429.2 (rye).

Production guarantees, in general, assure that the applicant is covered at least for the guaranteed units of production per acre specified in the county actuarial tables. Where no production guarantees have been established, insurance is usually provided on the basis of a dollar amount per acre planted to the crop. Production guarantees are not applicable for the following crops: citrus (Florida); forage (seeding); peaches; raisins; tobacco (dollar plan); and tobacco (quota plan).

For combined crop insurance, the producer has no election as to the level of coverage provided. See Appendix 120A-A for an example of the language used in a typical standard section of the regulations.

[8] *Ibid.* Effective for the 1983 and succeeding crop years, an interim rule provides for individual yield coverage under which a farmer may apply for determination of losses on the basis of the farmer's recorded yields, 47 Fed. Reg. 51347 (November 15, 1982). The crops initially designated for the program include corn, grain sorghum, oats, wheat, barley and soybeans.

See also the discussion of individual yield coverage in § 120A.02[2][c], *supra*.

[9] Although the regulations for many commodities still require the posting of indemnities (see, e.g., peaches, 7 C.F.R. § 403.3, and sugarcane, 7 C.F.R. § 417.3), the posting requirement is being eliminated.

See 46 Fed. Reg. 23199–23222, April 24, 1981, which removed the posting requirement from seventeen insurance policies offered by the Corporation.

The Report of the Committee on Agriculture of the House of Representatives said:

"This provision [for posting indemnities] was added to the Act in 1944 in

[d]—Creditor's Interests. This section provides, in general, that the interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy or an involuntary transfer does not entitle the holder of a creditor's interest to any benefit under the contract of insurance except as provided in the policy itself.[10]

[e]—Estoppel by Good Faith Reliance on Misrepresentation. Under this standard provision, the board of directors of the corporation or the chairman (in cases involving not more than $100,000) may grant relief from the payment of additional premiums or the denial of an insurance award if an additional payment or denial of benefits would not be "fair and equitable" because the insured person failed to comply with a contract provision as a result of good faith reliance on a misrepresentation or erroneous action or advice of an agent or employee of the Corporation.[11]

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connection with an amendment to prorate indemnities: It was believed only fair in this case that all farmers in the county should be informed as to the amount paid to other farmers. The provision to prorate future indemnities was deleted in 1949, prior to becoming operative. Experience since 1949 has shown that the requirement for posting serves no useful purpose. . . ." H.R. Rep. 96-430, 96th Cong., 1st Sess. 18 (1979). The statutory requirement for posting in 7 U.S.C. § 1508(c) was deleted when the Act was extensively amended in 1980.

[10] 7 U.S.C. § 1509 provides:

> "Claims for indemnities under this [Act] shall not be liable to attachment, levy, garnishment, or any other legal process before payment to the insured or to deduction on account of the indebtedness of the insured or his estate to the United States except claims of the United States or the Corporation arising under this title."

The regulations for each commodity contain a provision stating that except as provided in the policy, a person holding an interest in an insured crop (other than the insured) by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy or an involuntary transfer, is not entitled to any benefit under the contract. See, e.g., 7 C.F.R. §§ 420.4 (grain sorghum); 413.4 (Texas citrus crop).

See Appendix 120A-A *infra* for examples of this provision. See also § 120A.03[1], N. 3 *supra*.

[11] Such a provision is found in the regulations for all insured commodities. See, e.g., 7 C.F.R. §§ 404.5 (Western apples); 427.5 (oats); 402.5 (raisins).

The limitation on the manager's authority to grant relief under the policies was raised from $20,000 to $100,000 by amendments to all the policy regulations published in 48 Fed. Reg. 48449 (October 19, 1983).

Prior to the adoption of this provision, the Supreme Court had ruled that the doctrine of promissory estoppel did not apply to the corporation because it is a government entity.[12]

[f]—The Contract. Generally, this section of the regulation specifies that the insurance contract becomes effective upon the acceptance by the corporation of a signed application for insurance on a standard form prescribed by the corporation.[13] It also provides that the contract covers the crop as provided in the policy; that the contract consists of the application, the policy, the attached appendices, and the county actuarial tables; and that changes made in the contract do not affect its continuity from year to year.[14]

[g]—The Application and the Policy. Under this provision applications for insurance may be made by any person to cover that person's insurable interest in the crop, whether as landlord, owner–

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[12] Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947). This case has been cited many times for the general proposition that misplaced good faith reliance on representations of agents of the federal government will not avail against published regulations that are contrary to such representations. In a five to four decision, the Court found that:

> "Whatever the form in which the Government functions, anyone entering into an arrangement with the Government takes the risk of having accurately ascertained that he who purports to act for the Government stays within the bounds of his authority." 332 U.S. at page 384.

The court concluded that the regulations involved clearly precluded recovery for spring wheat reseeded on winter wheat acreage and that the representation by agents of the corporation that such acreage was insurable did not bind the Corporation and no loss was payable on the reseeded wheat acreage of the insureds.

Justice Jackson, dissenting, said: "If . . . we are to hold [crop insurance contracts] subject only to federal law and to declare what that law is, I can see no reason why we should not adopt a rule which recognizes the practicalities of the business." 332 U.S. at p. 387. The corporation has adopted regulations since the *Merrill* case was decided that grant administrative relief where there has been good faith reliance on misrepresentations. See N. 11 *supra.* Also see Byrne v. Federal Crop Insurance Corp., 289 F. Supp. 873 (D. Minn. 1968); Dauzat v. Federal Crop Insurance Corp., 339 F. Supp. 567, 570 (W.D. La. 1972); and Smith v. Federal Crop Insurance Corp., 58 So.2d 95, 97 (Miss. 1952).

[13] See, e.g., 7 C.F.R. §§ 433.6 (dry beans); 403.6 (peaches); 425.6 (peanuts).

See Appendix 120A-A for an example of the standard language used in the regulations to specify the contractual documents constituting the insurance contract.

[14] *Ibid.*

operator or tenant.[15] The section also generally requires that applications must be filed before the applicable closing date which may be ascertained at the office for the county, and that the closing dates may be extended by the chairman of the corporation on notice to the office for the county and by publishing the extended dates in the Federal Register.[16] Such extensions require a determination that no adverse selectivity will result during the period of extension and acceptance of applications may be discontinued at any time during extended periods if "adverse conditions" develop.[17]

The standard provision also gives the corporation the right to discontinue the acceptance of applications in any county and to reject any individual application if the corporation finds that the insurance risk is excessive.[18] This standard provision usually contains

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[15] See, e.g., 7 C.F.R. §§ 416.7 (peas); 410.7 (Florida citrus crop); 409.7 (Arizona–California Citrus Crop). See Appendix 120A-A for an example of a regulation that incorporates an application form and policy.

The corporation began using a new form of application for crop insurance in 1982. This form (revised September 1981) was designed to be applicable to all crops. For the 1983 crop year and succeeding crop years, a revision of the September 1981 form was promulgated as subpart D, 7 C.F.R. Part 400, in 48 Fed. Reg. 1023 (January 10, 1983) and revised 49 Fed. Reg. 6316 (February 21, 1984).

Farmers who had entered into seed corn production contracts with the DeKalb Agricultural Assocation under which the association agreed to furnish necessary labor and to compensate growers at the rate of $100 per acre plus $1.25 per bushel for each bushel of seed corn on the female acres in excess of 20 bushels per acre, were held to have insurable interests in the crop. The corporation had contended that the entire interest in the crop was owned by the seed association. Parks v. Federal Crop Insurance Corp., 416 F.2d 833, 837–840 (7th Cir. 1969).

[16] See the regulations cited in N. 15 *supra*.

Frier v. Federal Crop Insurance Corp., 152 F.2d 149 (5th Cir. 1945), held that acceptance of the plaintiff's application by the county clerk did not create a binding insurance contract. The court held that "acceptance by the County committee was necessary in order to create a binding contract." *Id.* at 150.

[17] See regulations cited in N. 15 *supra*.

[18] *Ibid.*

In Rainbow Valley Citrus Corp. v. Federal Crop Insurance Corp., 506 F.2d 467 (9th Cir. 1974), the court rejected a claim that the corporation's decision to discontinue citrus insurance in the Rainbow Valley area of Arizona, without giving the affected growers prior notice or an opportunity to be heard, violated the right to due process. The court held that the growers had no property interest in the citrus insurance, because the contract provided that either party could cancel the

the language of the standard form of application for the crop involved, the policy language and the provisions of any appendices to the policy which may be applicable to the crop.[19]

[3]—Analysis of Contractual Terms Common to Many Crops

By regulation, the contract of insurance for any insurable crop consists of the application, the policy, and all applicable appendices.[20] These documents, in general, have many terms and conditions applicable to more than one commodity. These common terms are briefly discussed in this subsection for each of the documents involved.

[a]—The Application. All applications require the applicant's name and address; a representation as to whether the applicant is over the age of 18; a representation that the applicant applies for crop insurance subject to the provisions of the regulations on the applicant's share in a specified crop grown on insurable acreage as shown on the actuarial table for the county involved;[21] and, the coverage level and price at which indemnities will be computed as

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insurance after one year and the Act did not entitle the growers to have the insurance. The Court said:

> "The Federal Crop Insurance Act does not create a system of statutory benefits; rather, it authorizes the FCIC to make contracts under certain circumstances. Further, the Act explicitly authorizes the FCIC to 'limit or refuse insurance in any county or area . . . on the basis of the insurance risk involved' (7 U.S.C. § 1508(a))." *Id.* at 470.

[19] See regulations cited at N. 15 *supra*, and see § 120A.03[3][c]*infra*.

Beginning with the 1982 crop year, the corporation adopted a multi-crop application form which eliminated the need for filing separate application forms for each crop to be insured. 47 Fed. Reg. 11642 (March 18, 1982). However, subsequent amendments to individual crop regulations also contain crop insurance applications, in the same form as the multi-crop application, for use where appropriate. See, e.g., reissued wheat regulations, 47 Fed. Reg. 14675 (April 6, 1982). See also reissued and revised application for 1983 succeeding crop years published at 48 Fed. Reg. 1023 (January 10, 1983) and revised 49 Fed. Reg. 6316 (February 21, 1984).

[20] See text at N. 14 *supra*.

[21] See Dauzat v. Federal Crop Insurance Corp., 339 F. Supp. 567 (W.D. La. 1972). The court held that since "insurable acreage" was to be determined by the "applicable county actuarial table" the insured was covered as to only 208 acres designated on the county actuarial map as insurable, instead of the 540 acres that an agent of the corporation had represented as being insured. See also N. 12 *supra*.

elected by the applicant from the actuarial table.[22] The application forms also state that the contract for insurance is in effect for the specified crop year when notice of acceptance of the application is mailed to the applicant by the corporation and continues in effect for each succeeding crop year until cancelled or terminated as provided in the contract.[23] The application forms state that additional information regarding contract provisions can be found in the county regulations folder on file in the office for the county and that no term or condition of the contract may be waived or changed except in writing by the corporation.[24]

For the 1983 and succeeding crop years, the application form no longer provides for notice of acceptance to be sent to the applicant by the corporation. The multi-crop form to be used in 1983 and later years provides for automatic acceptance, no notice being required from the corporation to the applicant except in cases of rejection.[25] The new form of application contains no reference to the county office folder.[26] Standard provisions required by the Privacy Act of 1974[27] have been added to the application form.[28]

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[22] A typical application form appears in Appendix 120A-A to this chapter. Application forms can usually be found in the federal regulations for each commodity. See, e.g., 7 C.F.R. §§ 416.7 (peas); 413.7 (Texas citrus crop). The application procedure has changed as the corporation has adopted a new multi-crop application form. See N. 19 *supra*.

[23] Oral cancellation is not ordinarily sufficient to cancel the policy and premiums continue to accrue under the terms of the policy so that suit will lie for collection of unpaid premiums even though the insured thought the policy had been cancelled by oral instructions to a representative of the corporation. United States v. Shaw, 137 F. Supp. 24, 28 (D.N.D. 1956); United States v. Cain, 112 F. Supp. 616 (W.D. Okla. 1953); United States v. Feldman, 93 F. Supp. 980, 982–985 (D. Neb. 1950). However, since these cases were decided, provision has been made to grant administrative relief for good faith reliance on an agent's act or advice so that in some cases relief might be granted even though notice to cancel did not meet the requirements of the regulations. See N. 12 *supra*.

[24] See regulations cited at N. 22 *supra*. Cf. N. 12 *supra*.

[25] See interim rule and form published at 48 Fed. Reg. 1023 (January 10, 1983). The interim rule was made final with minor modifications to the multi-crop form. 7 C.F.R. § 400.38, 49 Fed. Reg. 6316 (February 21, 1984).

[26] *Ibid.*

[27] 5 U.S.C. § 522(a).

[28] See application form published at 48 Fed. Reg. 1024 (January 10, 1983).

[b]—The Policies. In general, all older policies are expressly subject to an appendix that contains a number of common terms and conditions applicable to more than one commodity, as discussed below.[29] However, the policies may also contain contractual provisions that are specifically tailored to the kind of commodity covered by the insurance. Typically, policies cover the following:

[*i*]—*Cause of Loss.* The policies all specify the cause of loss covered by the insurance, subject generally to any exceptions, exclusions or limitations which may be shown on the applicable actuarial table for the crop in the office for the county.[30] The policies also state causes of loss for which insurance protection is not provided. General causes not insured against in any policies are the failure to follow good farming practices, neglect or malfeasance and damage resulting from the back up of water from any governmental or public utilities dam, or reservoir project.[31]

[*ii*]—*Crop and Acreage Insured.* Policies describe the crop or commodity covered and set forth, often in detail, the acreage afforded protection, which generally must be "insurable acreage" of the type described in the applicable actuarial table. The policies usually contain descriptions of minimal stands of trees for orchard crops and seeding requirements for field crops.[32]

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[29] The wheat crop insurance policy and the pea crop insurance policy included in Appendix 120A-A are typical policies used by the corporation in crop years 1981 and 1982. Many new forms of policies have been published under interim rules for use in 1983 and succeeding crop years. See policy citations in § 120A.03[1], N. 3 *supra.*

[30] E.g., Arizona–California citrus is insured against "unavoidable loss of products resulting from adverse weather conditions, wildlife, earthquake, fire, or Mediterranean Fruit Fly damage occurring within the insurance period . . . ." 7 C.F.R. § 409.7.

Wheat is insured against "adverse weather conditions, insects, plant disease, wildlife, earthquake or fire . . .", and Western apples against "frost, freeze, wind, hail, or fruit-set failure . . . ." 7 C.F.R. §§ 418.7 and 404.7, respectively.

The policy and actuarial table must be checked to find the coverage for the commodity involved.

[31] See regulation cited in N. 15 *supra.*

[32] For example, this provision of the policy for wheat (7 C.F.R. § 418.7) states:

"2. *Crop and acreage insured.* (a) The crop insured shall be wheat which is seeded for harvest as grain and for which the actuarial table shows a guarantee and premium rate per acre, which is grown on insured acreage.

"(b) The acreage insured for each crop year shall be that acreage seeded to [*iii*]—*Reporting Requirements.* Policies require the submission of annual reports by the insured to establish the acreage of the crop to be covered for the particular crop year and the insured's share or

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wheat on insurable acreage, as shown on the actuarial table and as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, in which the insured has a share: *Provided,* That insurance shall not attach or be considered to have attached as determined by the Corporation to any acreage (1) where premium rates are established by farming practices on the actuarial table, and the farming practices carried out on any acreage are not among those for which a premium rate has been established, (2) not reported for insurance as provided in section 3 if such acreage is irrigated and an irrigated practice is not provided for such acreage on the actuarial table, (3) which is destroyed and after such destruction it was practical to reseed to wheat and such acreage was not reseeded, (4) initially seeded after the date established by the Corporation and placed on file in the office for the county as being too late to initially seed and expect a normal crop to be produced, (5) of volunteer wheat, (6) seeded to a type or variety of wheat not established as adapted to the area or shown as noninsurable on the actuarial table, or (7) seeded with another crop.

"(c) Insurance may attach only by written agreement with the Corporation on acreage which is seeded for the development or production of hybrid seed or for experimental purposes."

While the new form of wheat policy published as an interim rule in 48 Fed. Reg. 14563 (April 5, 1983) for the 1984 and succeeding crop years uses different language and format, the substance of the requirements of this part of the policy is basically similar to the provisions quoted above. See 7 C.F.R. § 418.7, amended by 48 Fed. Reg. 14565 (April 5, 1983). On the other hand, the insurance policy for Arizona-California citrus provides:

"2. CROP AND ACREAGE INSURED. (a) The crop insured shall be any of the insurable citrus types as defined in section 1(m) of the Appendix elected by the insured, located on insured acreage, for which the actuarial table shows a guarantee and a percentage premium rate, and in which the insured has a share on the date insurance attaches.

"(b) The acreage insured for each crop year shall be that acreage of citrus located on insurable acreage as shown on the actuarial table, and the insured's share therein as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect: *Provided,* That the trees have reached at least the sixth growing season after being set out.

"(c) Insurance may attach only by written agreement with the Corporation on any acreage with less than 90 percent of a stand, based on the original planting pattern." 7 C.F.R. § 409.7.

See also, Appendix 120A–A and N. 21 *supra.*

interest in the crop for the particular year.[33]

[*iv*]—*Production Guarantees Covering Levels and Prices for Computing Indemnities.* In general, policies provide that for each crop year, the production guarantees (if applicable to the crop), the coverage levels, and the prices for computing indemnities are those shown for the particular crop and the particular crop year on the actuarial tables on file in the office for the county.[34]

[*v*]—*Annual Premium.* The formula for computing the annual premium is included in all of the policies. These formulas adjust the premium to the circumstances of the particular commodity and farmer through factors for the acreage, the coverage and the insurable share, and by use of adjustment tables for reducing or increasing premiums on the basis of favorable or unfavorable loss experiences of the insured during previous years.[35]

The policies also provide for the payment of a service fee of nine percent on premiums that are not paid by the termination date for indebtedness for the covered crop. This fee is added to the premium balance. Thereafter, at the end of each 12 month period, simple interest attaches to the unpaid premium balance, except that if a notice of loss is timely filed, the service fee does not attach if the premium is paid within 30 days after approval or denial of the claim for indemnities.[36] Beginning with the 1983 crop year, the service fee-interest rate provisions of the corporation's policies were changed to reflect the corporation's new procedure of charging one and one half percent simple interest per calendar month, or part thereof, on any unpaid premium balance due the corporation starting on the first day of the month following the first premium billing date.[37]

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[33] See generally, policies following sections of the Code of Federal Regulations cited at § 120A.03[1], N. 3 and N. 15 supra, and examples in Appendix 120A–A.

See also Federal Crop Insurance Corp. v. De Cell, 76 So.2d 826, 829–831 (Miss. 1955), where the court held that a failure to correct an error on the acreage form limited the insured to the lesser amount shown rather than the greater acreage actually planted.

As a result of the 1984 Acreage Reduction and Payment-in-Kind Programs for wheat, farmers have been given an opportunity to file amended acreage reports. If such reports are filed, premiums will be reduced and producers will be eligible for higher yield guarantees. 7 C.F.R Part 418 as modified by 49 Fed. Reg. 15541 (April 19, 1984).

[34] See generally, Section 4 of the policies following the regulations cited at N. 15 *supra*, and example in Appendix 120A–A. See also example of actuarial table at Appendix 120A–B, and § 120A.03[1], N. 3 *supra*.

[35] See policies following regulations cited at N. 15 *supra* and example of table for adjustment of premiums in Appendix 120A–A to this chapter. See also § 120A.03[1], N. 3 *supra*.

[36] See policies following regulations cited at N. 15 *supra* and example in Appendix to 120A–A. However, changes are being made effective for some 1983

All policies permit the Corporation to deduct unpaid premiums from indemnities payable to the insured or from any loan or payment to the insured under any act of Congress or program administered by the U.S. Department of Agriculture, when not prohibited by law.[38]

[*vi*]—*Insurance Period.* The period for which insurance is in effect varies with the crop being insured and is specified in the policy. In general, the period covers the entire production cycle of the commodity.[39]

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crops, for example, see 47 Fed. Reg. 18315-18319 published April 29, 1982 changing interest provisions for 1983 crop barley and oats to provide for accrual of interest at 1 1/2 percent simple interest per calendar month. For recent policies, see § 120A.03[1], N. 3 *supra.*

[37] See notice of the change in computation procedure and list of first premium billing dates for all crops, published at 47 Fed. Reg. 35542 (August 16, 1982).

[38] See policies following regulations cited at N. 15 *supra* and example in Appendix 120A–A to this chapter. See also § 120A.03[1], N. 3 *supra.*

[39] While the format and language of this provision have been changed for the 1984 and subsequent crop years, the substance is generally the same. 7 C.F.R. § 418.7 amended by 48 Fed. Reg. 14566 (April 5, 1983).

The provision for wheat, a seeded crop, reads:

> "6. *Insurance period.* Insurance on insured acreage shall attach at the time the wheat is seeded (except that for fall seeded wheat in certain states and counties, insurance will attach April 15 following seeding: *Provided,* That there is an adequate stand on this date to produce a normal crop as determined by the Corporation) and shall cease upon the earliest of (a) final adjustment of a loss, (b) combining, threshing, or removal of the wheat from the field, (c) October 31 of the calendar year in which wheat is normally harvested, or (d) total destruction of the insured wheat crop." 7 C.F.R. § 418.7.

The provision for Western apples, an orchard crop, reads:

> "6. *INSURANCE PERIOD.* Insurance on insured acreage shall attach each crop year on November 21 and shall cease upon the earlies of (a) final adjustment of a loss, (b) harvest of the insured apples, (c) October 31 of the calendar year in which the apples are normally harvested, or (d) total destruction of the insured apple crop." 7 C.F.R. § 404.6.

[*vii*]—*Notice of Damage or Loss.* In general, all policies require that "notice of damage or loss . . . be given promptly in writing by the insured to the Corporation at the office for the county." [40] However, specific notice requirements vary from commodity to commodity, and different time periods are specified for perfection of indemnity claims.[41] Thus, it is essential to follow the spe-

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[40] See policies following regulations cited at N. 15 *supra*, and example in Appendix 120A-A. See also § 120A.03[1], N. 3 *supra*.

[41] See example in Appendix 120A-A. Time for giving notice of a claim for indemnity and other requirements varies from crop to crop. For example, in wheat, the provision reads:

> "7. *Notice of damage or loss.* (a) Any notice of damage or loss shall be given promptly in writing by the insured to the Corporation at the office for the county.
>
> "(b) Notice shall be given promptly if, during the period before harvest, the wheat on any unit is damaged to the extent that the insured does not expect to further care for the crop or harvest any part of it, or if the insured wants the consent of the Corporation to put the acreage to another use. No insured acreage shall be put to another use until the Corporation has made an appraisal of the potential production of such acreage and consents in writing to such other use. Such consent shall not be given until it is too late or impractical to reseed to wheat. Notice shall also be given when such acreage has been put to another use.
>
> "(c) In addition to the notices required in paragraph (b) of this section, if a loss is to be claimed on any unit, the insured shall give written notice thereof to the Corporation at the office for the county not later than *30 DAYS* after the earliest of (1) the date harvest is completed on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire wheat crop on the unit is destroyed, as determined by the Corporation. The Corporation reserves the right to provide additional time if it determines there are extenuating circumstances.
>
> "(d) Any insured acreage which is not to be harvested shall be left intact until the Corporation makes an inspection.
>
> "(e) The Corporation may reject any claim for indemnity if any of the requirements of this section are not met." 7 C.F.R. § 418.7.

While the format and language of the notice provisions of the wheat policy for the 1984 and succeeding crop years published as an interim rule in 48 Fed. Reg. 14566 (April 5, 1983) have been changed, notice of loss is still required to be given in the circumstances described above. However, an orchard crop, such as Western apples, reads:

> "7. *NOTICE OF DAMAGE OR LOSS.* (a) Any notice of damage or loss shall be given promptly in writing by the insured to the Corporation at the office for the county when the insured damage to the apples becomes apparent giving the date(s) and cause(s) of such damage.

cific requirements of the policy for the commodity involved. This is particularly true in view of the changes being made in policies by the corporation for 1983 and succeeding crop years.[42]

Insured acreage upon which an indemnity is to be claimed should generally be left undisturbed until the crop can be inspected by the corporation.[43] The corporation may reject a claim for indemnity if any requirements of the notification provisions of the policy are not met.[44]

"(b) If an indemnity is to be claimed on any unit, the insured shall give written notice thereof to the Corporation at the office for the county (1) at least fifteen days before harvest commences if a final adjustment has not been made on the unit, and (2) immediately if the damage occurs within the fifteen-day period before harvest commences, or during harvest.

"(c) In addition to the notices required in subsection (a) and (b) of this section, if an indemnity is to be claimed on any unit, the insured shall give written notice thereof to the Corporation at the office for the county not later than *30 DAYS* after the earlier of (1) the date harvest is complete on the unit, (2) October 31 or (3) the date the entire apple crop on the unit is destroyed, as determined by the Corporation. The Corporation reserves the right to provide additional time if it determines there are extenuating circumstances.

"(d) Any insured acreage upon which an indemnity is to be claimed shall be left intact until inspected by the Corporation.

"(e) The Corporation may reject any claim for indemnity if any of the requirements of this section are not met." 7 C.F.R. § 404.7.

[42] See listing of citations to new regulations and policies in § 120A.03[1], N. 3 *supra.*

[43] See policies following regulations cited at N. 15 *supra* and the example in Appendix 120A-A. See also § 120A.03[1], N. 3 *supra.*

[44] *Ibid.*

See also Mock v. United States, 183 F.2d 174 (10th Cir. 1950) (fact that insured was advised by officials of corporation not to file claim until established yield for the farm had been raised did not constitute valid excuse for failure to file proof of loss); Felder v. Federal Crop Insurance Corp., 146 F.2d 638 (4th Cir. 1944) (failure to file timely written proof of loss barred recovery on the policy); Byrne v. Federal Crop Insurance Corp., 289 F. Supp. 873 (D. Minn. 1968) (failure to file written notice of claim barred recovery even though oral notice of loss had been given and the corporation had prepared a claim that insured refused to sign, presumably because the insured was claiming a greater amount of damages); and United States v. Blackburn, 109 F. Supp. 319 (E.D. Mo. 1952) (offsetting claim by insured on suit to recover premium was barred because timely proof of loss was not filed).

These cases contrast with: Knisely v. Federal Crop Insurance Corp., 334 F.

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[*viii*]—*Claims for Indemnity.* This provision generally places the burden on the insured to establish that the claimed loss of production was directly caused by one or more of the events insured against during the insurance period for the crop year involved, and to supply any information regarding the loss as the corporation may require.[45] This provision also contains formulas and directions for computing indemnities that suit the specific commodity for which the insurance has been written. Generally, this provision determines the value of the loss in production and specifies what kinds and what degrees of partial production shall be taken into account if, as is often the case, the crop is not totally lost.[46]

[*ix*]—*Misrepresentation and Fraud.* All policies state that:

> "The Corporation may void the contract without affecting the insured's liability for premiums or waiving any right, including the right to collect any unpaid premiums if, at any time, the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred."[47]

Supp. 425, 429 (S.D. Ohio 1971) (failure to submit a timely proof of claim was no bar where contract provided that failure to timely file claim would bar claim if the corporation was prejudiced by the failure); and Federal Crop Insurance Corp. v. De Cell, 76 So.2d 826, 829 (Miss. 1955) (failure to file written proof of loss was not fatal to the claim because the corporation had made a practice of filing the claim on behalf of the insured).

[45] See policies following regulations cited at N. 15 *supra* and the example in Appendix 120A-A. See also § 120A.03[1], N. 3 *supra.*

[46] *Ibid.* FCIC is entitled to value a reduced crop of peanuts that yielded about one third of the normal production for the farm because of drought, at the gross amount received by the farmer when the reduced quantity of peanuts was sold, even though that price was about 40 cents per pound above the support price because of the drought and the farmer contended his reduced yield should have been valued for insurance purposes at the support rate. Manon v. Federal Crop Insurance Corp., 710 F.2d 144 (4th Cir. 1983). The court said: "It was not the intent of Congress to insure profits, but to prevent disastrous losses." 710 F.2d at page 147.

[47] *Ibid.* The provisions relating to misrepresentation and fraud are essentially the same in the revised wheat policy for the 1984 crop year and succeeding crop years. 48 Fed. Reg. 14567 (April 5, 1983).

See also Parks v. Federal Crop Insurance Corp., 416 F.2d 833, 839 (7th Cir. 1969), holding that the plaintiff's failure to reveal that seed corn being insured was

[x]—*Transfer of Right to Indemnity on Insured Crop.* A policy holder who transfers all or any part of the insured crop during the crop year may transfer the right to an indemnity on an approved form. The transferee generally has the same rights and responsibilities as the original insured for the current crop year.[48]

[xi]—*Records and Access to the Farm.* The policies require the holders to maintain production and harvest records for all units of production for two years after the time of any loss and permit persons designated by the corporation to have access to such records for purposes related to the insurance contract.[49]

[xii]—*Life of Contract: Cancellation and Termination.* The policies provide that contracts of crop insurance run for the crop year specified in the application and may not be cancelled during that crop year. Thereafter the insurance automatically continues from crop year to crop year unless the policy holder or the corporation gives "signed" notice of cancellation to the other on or before the cancellation date for the crop year. However, contracts terminate for any crop year if any amount due the corporation is not paid on or before the termination date for indebtedness for the crop year. The cancellation dates and the termination dates are specified in the policies.[50]

[c]—**The Appendices to the Policies.** The appendices to the older policies are, generally, of two types. One type contains additional terms and conditions that the policy is expressly made subject to by its own preamble.[51] The other type names the counties in which the crop insurance for the particular commodity will be offered.[52] The latter information is now generally made available

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being grown under contract for seed producer who guaranteed certain minimum payments, was not a material misrepresentation.

[48] See policies following regulations cited at N. 15 *supra*, and the example in Appendix 120A-A. See also § 120A.03[1], N. 3 *supra*.

[49] *Ibid.*

[50] *Ibid.*

See also cases cited at N. 23 *supra*, where automatic renewal of the policy gave rise to liability for the premium.

[51] See appendices following the regulations cited in N. 15 *supra*, and Appendix 120A-A.

[52] *Ibid.*

through the corporation's service offices. The additional terms and conditions formerly contained in the appendices are now incorporated in the policies and cover such matters as:

[*i*]—*Meaning of Terms.* This section defines key words of specialized meaning used in the insurance contract. Some of these definitions, such as those for "actuarial table," "county," "insurable acreage," "insured," "person," and others are common to the appendices for all crop policies.[53] Other terms, such as "carton," "crop year," "harvest," and "type of citrus," are specifically written for the particular kind of crop or commodity for which the policy is offered.[54]

[*ii*]—*Acreage Insured.* This standard provision gives the corporation the right to limit a crop's insured acreage according to any acreage limitations established by Congress, provided that the insured is notified in writing prior to the time when insurance attaches to the crop. If an acreage report is not timely submitted to the corporation by the policy holder, the corporation may determine the insured acreage or declare it to be zero.[55]

[*iii*]—*Irrigated Acreage.* This section contains standard language that allows the insured to report as irrigated acreage only that land for which the insured has adequate facilities and water to carry out good irrigation practices at the time when the insurance attaches. Losses resulting from failure to carry out good irrigation practices cannot be compensated unless caused by a failure of the water supply from an unavoidable cause, not including equipment breakdowns.[56]

[*iv*]—*Annual Premium.* This section of the appendix, in general, preserves the premium adjustment process of the policy (either

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[53] *Ibid.* See also § 120A.03[1], N. 3 *supra.*

[54] *Ibid.*

For example, the definition of "harvest" in the appendix to the barley contract reads: " 'Harvest' means the severance of mature barley from the land for combining or threshing." However, the same term in the cotton policy states: " 'Harvest' means the removal of seed cotton from the open ball or the severance of the open cotton ball from the stalk by either manual or mechanical means." Appendices following 7 C.F.R. § 419.7 and 7 C.F.R. § 421.7, respectively.

[55] See the appendices following the regulation cited in N. 15 *supra* and Appendix 120A–A. See also policies cited in § 120A.03[1], N. 3 *supra.*

[56] *Ibid.*

upward or downward based on loss experience) to specified successors in interest, or to the insured where the insured changes farms, if there is no loss in continuity of participation. If there is a loss of continuity, favorable loss experience is dropped, but unfavorable loss experience carries forward in the computation of premiums.[57]

[v]—*Claim for and Payment of Indemnity.* This standard section of the policy appendix affects the payment of indemnities as follows:

(1) claims must be on forms prescribed by the corporation;

(2) commingled production is allocated to units proportional to the liability in each unit;

(3) no acreage may be abandoned to the corporation;

(4) suit may be brought by an insured within one year after date of notice of denial of a claim is sent to and received by the insured;

(5) indemnities are paid within 30 days of approval;

(6) in the event of death, disappearance or incompetency of an insured person or dissolution of an insured business entity, any indemnity is paid to the persons the corporation determines to be beneficially entitled to the amount; and

(7) claims for indemnities may be rejected for not meeting the requirements of the sections of the policy appendix and the policy applicable to the perfection of claims.[58]

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[57] *Ibid.*

[58] *Ibid.*

In Citizens' Bank of Jonesboro v. Federal Crop Insurance Corp., 547 F.2d 59, 62 (8th Cir. 1976), a suit by a successor in interest to a cotton crop insurance policy, held that total production minimums applied to individual acres, rather than on a total acreage basis. Thus, such minimums are not met where one-third of the acreage had been left unharvested even though the quantity produced from the harvested acreage when taken *in toto* would have met the production minimum computed *in toto.*

Godbold v. Federal Crop Insurance Corp., 365 F. Supp. 836 (N.D. Miss. 1973) held that the one-year period of limitation on suits will be strictly enforced.

Costs may be awarded against the corporation. Maguire v. Federal Crop Insurance Corp., 9 F.R.D. 240 (W.D. La. 1949), *rev'd on other grounds,* 181 F.2d 320 (5th Cir. 1950); and Baker v. Federal Crop Insurance Corp., 407 P.2d 841 (Ore. 1965). The value of the crop loss is determined at the time the crop covered by the policy is disposed of, Scaife v. Federal Crop Insurance Corp., 167 F.2d 152 (8th [*vi*]—*Termination of the Contract.* This provision states that the contract of insurance terminates if no premium is earned (i.e. the insured crop is not raised) for five consecutive years. In addition, if the insured dies or is declared incompetent, or if the insured is an entity other than a person and the entity is dissolved, the insurance terminates upon the happening of any of such events unless the insurance has attached for the crop year, in which event it continues through the crop year and terminates at the end of the crop year.[59]

[*vii*]—*Coverage Level and Price Election.* If no election of coverage level or price has been made by the insured, the coverage level and price are as provided on the actuarial table for such purposes. The insured may change the coverage level and price election for any crop year on or before the closing date for applications for that crop year.[60]

[*viii*]—*Assignment of Indemnity.* Although indemnities are generally free from levy, they may be assigned on a prescribed as-

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Cir. 1948), or at the time the claim was denied, Federal Crop Insurance Corp. v. Thompson, 220 S.W.2d 689, 692 (Tex. App. 1949).

The loss adjustment process is designed to ascertain the degree to which production fell short of the established norm or production guarantee for the crop. Loss adjustment may be carried out by adjustment service contractors or by federal employees. Generally speaking, these personnel apply principles contained in Federal Crop Insurance Handbooks for the particular crop involved. See, e.g., Federal Crop Insurance Handbook M–8–Cotton (4–81). Some small losses may be adjusted without farm visits. Regional Office Program Operations Handbook M8–Ro–PO(5081) and Field Operations Handbook —Program and Technical Instructions for FCIC Fieldpersons M8–FO(2–81). Handbooks are published by the Federal Crop Insurance Corporation, Department of Agriculture, Washington, D.C. 20250. See § 120A.06 for a discussion of claims for indemnity and loss adjustment.

Interest is payable on indemnities from and including the 61st day after the date the properly completed claim for indemnity is signed by the claimant. See the general policy amendment in 50 Fed. Reg. 7906 (February 27, 1985). The rate payable beginning March 1, 1985, through June 30, 1985, is 12-1/2 percent. 50 Fed. Reg. 9468 (March 8, 1985). Announcements of rate changes will be made by the corporation from time to time.

[59] See appendices following regulations cited at N. 15 *supra* and Appendix 120A–A. See also § 120A.03[1], N. 3 *supra.*

[60] See appendices following regulations cited at N. 15 *supra,* and the sample actuarial table in Appendix 120A–B. See also § 120A.03[1], N. 3 *supra.*

signment form upon approval of the corporation. The assignees have the right to submit loss notices and forms.[61]

[*ix*]—*Contract Changes.* The corporation reserves the right to make changes in the terms of the contract from year to year. Any changes must be mailed to the insured or placed on file for public inspection in the office for the county at least 15 days prior to the cancellation date preceding the crop year for which the changes are to become effective. The insured is conclusively presumed to have accepted the changes unless the insured cancels the policy in the prescribed manner.[62] In general, the revised crop insurance policies being issued by the corporation for the 1983 and succeeding crop years for all commodities include the additional policy terms that were previously contained in appendices to the policies.[63] Appendices listing the counties where the insurance will be made available to farmers have been retained for some policies.[64]

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[61] See appendices following regulations cited at N. 15 *supra*, and example in Appendix 120A–A. See also § 120A.03[1], N. 3 *supra*.

For an example of a suit brought by a successor in interest see Citizen's Bank of Jonesboro v. Federal Crop Insurance Corp., 547 F.2d 59 (8th Cir. 1976).

[62] See appendices following regulations cited at N. 15 *supra*, and Appendix 120A–A. See also § 120A.03[1], N. 3 *supra*.

[63] See policies for 1983 and succeeding crop years cited in § 120A.03[1], N. 3 *supra*.

[64] See, e.g., Wheat Crop Insurance for the 1984 and succeeding crop years, 7 C.F.R. Part 418, amended by 48 Fed. Reg. 14563 (April 5, 1983) and corrected to include the list of counties where such insurance is available, 48 Fed. Reg. 56931 (December 27, 1983). Later policies, such as those published in 49 Fed. Reg. 49053 *et. seq.* (December 18, 1984) covering grain sorghum; 7 C.F.R. Part 420; cotton, 7 C.F.R. Part 421; rice, 7 C.F.R. Part 424; peanuts, 7 C.F.R. Part 425; and corn, 7 C.F.R. Part 423; do not have Appendix A attached. The availability of these policies, for the 1985 and subsequent crop years, in a particular area or county may be ascertained at the local corporation service office.

§ 120A.04 Agreements for Reinsurance

[1]—In General

The Act requires the corporation "to provide reinsurance, to the maximum extent practicable, upon such terms and conditions as the board may determine to be consistent [with the direct insurance offered by the corporation] and sound reinsurance principles" to private insurance companies, pools of such companies, reinsurers, or state and local governments that insure producers.[1] This is a new undertaking for the corporation added by the 1980 amendments. Although the statute previously authorized a pilot program of reinsurance, such a program was never started because no companies were interested in a limited and experimental program.[2]

Despite the short time the reinsurance program has been operating—the first notice of an offer to provide reinsurance was issued in January 1981—the program is attracting private insurance companies.[3] In December 1981, the corporation reported that thirty-five insurance companies had contracted with the corporation for reinsurance.[4] The corporation estimated that these companies will write $200 million in policies for the crop year 1982.[5]

Companies wishing to participate must file a plan of operation that, among other things, shows the crop year for which insurance will be first written, the crops to be covered, the states where insurance will be offered, the use of other reinsurance for the same policies, premium rates to be charged, and the maximum book premium to be covered.[6] Copies of policies should also be sent.[7] Other material may be requested by the corporation and participation may be limited.[8]

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[1] 7 U.S.C. § 1508.

[2] See § 120A.01 N. 28 *supra.*

[3] The Federal Crop Insurance Corporation published the first notice of its offer to provide reinsurance on January 5, 1981, 46 Fed. Reg. 974. The offer was renewed for the 1982 crop year when notice of the Agreement and Amendment No. 1—Treaty Surplus Share were published August 20, 1981, 46 Fed. Reg. 42305. References herein are to the latter publication, reproduced as Appendix 120A–C *infra.*

[4] December, 1981 newsletter—"All-Risk Update"—published by the Federal Crop Insurance Corporation, Department of Agriculture, Washington, D.C. 20250.

[5] *Ibid.*

[6] Preamble, 46 Fed. Reg. 42305, (1981) reprinted in Appendix 120A–C *infra.*

[7] *Ibid.*

[2]—The Scope of the Reinsurance Contract

Reinsurance offered by the corporation may be obtained by private insurance companies to cover all or part of the policies such companies write, either as primary insurers or as reinsurers of other companies.[9] The Reinsurance Agreement provides that the Federal Crop Insurance Corporation will "reimburse the excess liability which may accrue to the company as a result of losses incurred during the period [the] Agreement is in force . . ." under policies of multi-peril crop insurance.[10]

Under Amendment I, which is a surplus insurance treaty issued as a supplement to the Standard Reinsurance Agreement, an insurance company may establish an annual dollar limit (known as a "line limit") for the "book premium" to be written by the company. A company may vary its line limit from state to state and from crop year to crop year. Under the treaty, the corporation assumes a share of the ultimate loss on insurance written in excess of the line limit.[11] The corporation's share of the loss is determined in accordance with a formula provided in the treaty and the corporation receives a proportional share of the book premium.[12] Other terms and conditions are the same as for the Standard Reinsurance Agreement (the Agreement).[13]

To be eligible for reinsurance, policy forms must be approved by the corporation and provide coverage identical to the corporation's direct insurance at premium rates not less than those used by the corporation.[14] The insurance company must submit a plan of operation that, if approved by the corporation, is incorporated into the reinsurance agreement. Such a plan may be changed only by agreement of both parties except that the corporation may limit the amount of "book premium" subject to reinsurance.[15]

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[8] *Ibid.*

[9] Standard Reinsurance Agreement, § IA, 46 Fed. Reg. 42306 (1981). See Appendix 120A–C *infra.* See also the agency notice in 49 Fed. Reg. 127 (January 3, 1984) for an example of an offer to provide reinsurance to multi-peril private insurers of cranberries.

[10] *Ibid.*

[11] Standard Reinsurance Agreement, Amendment I—Treaty Surplus Share, 46 Fed. Reg. 42310 (1981). See Appendix 120A–C *infra.*

[12] *Ibid.*

[13] *Ibid.*

[14] Standard Reinsurance Agreement, § IB, 46 Fed. Reg. 42306 (1981). See Appendix 120A–C *infra.* The corporation has also promulgated standards for ap-

[3]—Sharing of Gains and Losses

The insurance company and the corporation share gains and losses on reinsured insurance (subject to any Treaty Surplus Share agreement) according to a formula specified in the Agreement, that is based on the loss ratio for each crop insured.[16] In the event of an unfavorable ratio, the insurance company's share of the loss may not exceed eight percent of the book premium.[17] If the loss ratio is favorable, the company's share of the gain may not exceed eight percent of the book premium.[18] Gains and losses for each crop are carried in the company's account with the corporation and the net amount due is payable upon submission of the annual summary for the crop season.[19]

Since the Agreement is automatically renewable unless terminated as provided in the Agreement,[20] the contract provides for disbursement of balances in the company reinsurance account at the end of each "extended period," a period encompassing five crop

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proval of companies that wish to participate in the reinsurance program. See 7 C.F.R. §§ 400.50–400.58, 49 Fed. Reg. 22758 (June 1, 1984).

[15] Standard Reinsurance Agreement, §§ IC and ID, 46 Fed. Reg. 42306 (1981). See Appendix 120A–C *infra*.

[16] Standard Reinsurance Agreement, § III, 46 Fed. Reg. 42306 (1981). For the different methods of calculating the amounts due the company holding a Treaty-Surplus Share supplement, see 42 Fed. Reg. 42310 (1977), Appendix 120A–C *infra*.

[17] Standard Reinsurance Agreement, § III, N.16 *supra*.

[18] *Ibid.*

[19] Standard Reinsurance Agreement, § III A7, reprinted in Appendix 120A–C *infra*.

[20] Standard Reinsurance Agreement, § II, reprinted in Appendix 120A–C *infra*. The corporation gave notice of informal rulemaking for an annual form of Standard Reinsurance Agreement. See 50 Fed. Reg. 16502 (April 26, 1985), affecting 7 C.F.R. §§ 400.75 to 400.81.

years.[21] At that time the company is entitled to receive 20 percent of the amount in its reinsurance account, but not more than five percent of the total book premium written by the company during the five year "extended period."[22] If the company has a negative balance at the end of the period, the company's share of the balance is zero.[23]

If the agreement is terminated by either party, as provided in the Agreement, during an "extended period," settlement between the parties is at the end of the crop year under formulas in the Agreement.[24]

Treaty surplus share losses are treated differently. If the book premium exceeds the company's line limit, the corporation assumes a share of any ultimate loss in consideration for an equal proportional share of the book premium. The corporations' share is determined under a formula set forth in the Agreement.[25]

[4]—Expense Reimbursement

The corporation is required to provide an allowance for expenses incurred by the private insurance company in the business reinsured by the corporation.[26] This allowance amounts to 22 percent of the company's earned book premium for operating and agents' commission expenses, plus five percent for new business.[27] In addition, the company is entitled to receive four percent of book premium earned and three percent of ultimate net losses for direct loss adjustment expenses.[28] Expense reimbursements are payable in accordance with a schedule set forth in the Agreement.[29] Remittances are to be made to the company, or by the company to the Corporation, after the submission of each end-of-month interim report and in the net amount computed by application of a formula in the Agreement.[30]

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[21] Standard Reinsurance Agreement, §§ IIIB and C, and XVIII 8, reprinted in Appendix 120A–C *infra.*

[22] Standard Reinsurance Agreement, § IIIB, reprinted Appendix 120A–C *infra.*

[23] *Ibid.*

[24] Standard Reinsurance Agreement, §§ III C and D, reprinted in Appendix 120A–C *infra.*

[25] See Standard Reinsurance Agreement—Amendment No. 1, paragraph A.2., Treaty Surplus Share, reprinted in Appendix 120A–C *infra.*

[26] 7 U.S.C. § 1508 states in pertinent part:

> "The Corporation shall also pay operating and administrative costs to insurers of policies on which the Corporation provides reinsurance to the same extent that such costs are covered by the Corporation on the Corporation's policies of insurance."

[27] Standard Reinsurance Agreement, § IV, reprinted in Appendix 120A–C *infra.*

[5]—Loss Adjustment

The Agreement obligates the insurance company to use loss adjustment procedures and methods consistent whith those utilized by the corporation.[31] The corporation may require the insurance company to undertake a training program for loss adjusters.[32] In addition, the corporation retains the right to participate in any action brought against the insurance company or any of its agents with respect to reinsured policies.[33] The insurance company is required to hold the corporation harmless for any loss the corporation may incur due to the company's conduct in the investigation, defense or handling of any claim or suit or in any dealing with the company policyholders.[34]

[6]—Other Significant Provisions of the Agreement

In addition to the foregoing, the Agreement contains a number of other provisions required by the Act. For example, the agreement provides that a subsidy is permitted on producer premiums and treated as if it had been remitted to the company.[35]

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[28] *Ibid.*

[29] *Ibid.*

[30] Standard Reinsurance Agreement, § XIV, reprinted in Appendix 120A–C *infra.*

[31] Standard Reinsurance Agreement, § XVII A, reprinted in Appendix 120A–C *infra.*

[32] Standard Reinsurance Agreement, § XVII B, reprinted in Appendix 120A–C *infra.*

[33] Standard Reinsurance Agreement, § XVII C, reprinted in Appendix 120A–C *infra.*

[34] Standard Reinsurance Agreement, § XVII D, reprinted in Appendix 120A–C *infra.*

Hail and fire coverage may be excluded from the policies reinsured with the corporation, and, if excluded, a reduction in the premiums charged will be permitted.[36] Other provisions require the filing of a series of periodic reports.[37] The insurance company may carry reinsurance with other companies besides the corporation.[38] Insolvency, arbitration, access to books and records and errors and omissions are covered by the Agreement.[39]

If salvage or recovery in connection with any loss is received subsequent to the payment of the loss involved, the loss must be recomputed and any amounts due the corporation must be paid to it.[40] The Agreement obligates the insurance company to sell the policies through licensed agents or brokers.[41] The Agreement contains definitions of key words and such clauses as the anti-discrimination clause and the member-delegate clause required in contracts with the government.[42]

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[35] Standard Reinsurance Agreement, § V, reprinted in Appendix 120A–C *infra*.

[36] 7 U.S.C. 1508(b)(2) provides for the exclusion of hail and fire risks from the coverage provided producers. See § 120A.02[1][b][iv] *supra*. Since some commercial companies provided hail and fire coverage to farmers before the 1980 amendments to the Act, the provisions of § VI of the Standard Reinsurance Agreement, 46 Fed. Reg. 42307 (1981) permit the reinsured company to cover such risks itself without reinsurance if it wishes to do so. See Appendix 120A–C *infra*.

[37] Standard Reinsurance Agreement, § VII, reprinted in Appendix 120A–C *infra*.

[38] Standard Reinsurance Agreement, § VII, reprinted Appendix 120A–C *infra*.

[39] Standard Reinsurance Agreement, §§ IX, X, XI, and XII, reprinted in Appendix 120A–C *infra*.

[40] Standard Reinsurance Agreement, § XIII, reprinted in Appendix 120A–C *infra*.

[41] Standard Reinsurance Agreement, § XVI reprinted in Appendix 120A–C *infra*.

[42] Standard Reinsurance Agreement, §§ XVIII and XV, reprinted in Appendix 120A–C *infra*.

§ 120A.05 Sales and Service Agreements

[1]—In General

The Act directs the board of the corporation, to the maximum extent possible, to encourage the sale of federal crop insurance through licensed private insurance agents and brokers, and to give the insured the right to renew the insurance for successive terms through agents and brokers.[1] The corporation has developed standard forms for sales and service agreements that permit private entities or agencies to provide sales and services for crop insurance offered by the corporation. Three agreements are offered: (1) Sales Agreements that are made available to individuals and small operators who wish to sell federal crop insurance; (2) Sales and Service Agreements that are offered to firms willing to undertake some service functions as well as sales operations; and (3) Agency Sales and Service Contracts that are offered to larger insurance agencies that are prepared to plan and undertake a full sales and service operation.[2] This section covers the Agency Sales and Service Contract and the Sales Agreement. The Sales and Service Agreement is generally the same as the Agency Sales and Service Contract, except that the latter agreement contains provisions relating to the preparation and submission for approval of a plan of operations, whereas the former agreement does not.

The sales and service agreements, in general, cover utilization of the entity's organization to perform sales and service functions on behalf of the corporation including training and supervision of the sales staff to insure compliance with procedures and instructions of the corporation.[3] To participate in such an arrangement, the agency subject to an Agency Sales and Service Contract, must submit a plan of operation, that, if approved, becomes part of the contract.[4] In addition to submitting a plan of operation, a sales and service agency must also meet the standards for approval contained in regulations published by the corporation.[5] An agency is considered acceptable under the standards (assuming no other adverse information affects its status) if it has a ratio of current assets to current liabilities in excess of 1.2 to 1 and current assets exceed current liabilities by an amount equal to at least three percent of anticipated volume for the period covered by the annual plan of operation.[6] Financial data must be audited by certified public accountants.[7] The regulations also allow additional financial protection for the benefit of the corporation if the sale and service agency cannot meet the prescribed standards.[8]

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[1] 7 U.S.C. § 1507(c)(3).

[2] Agency Sales and Service Contract, Form FCIC-455 (revised 12–82); Sales and Service Agreement, Form FCIC-440 (revised 7–81); and Sales Agreement, Form FCIC-439 (revised 7–81). Copies may be obtained from the Federal Crop Insurance Corporation, Department of Agriculture, Washington, D.C. 20250.

A copy of the Agency Sales and Service Contract appears as Appendix 120A-D *infra*.

[3] See, e.g., Agency Sales and Service Contract, § II, Appendix 120A-D *infra*.

[4] Agency Sales and Service Contract, § I, Appendix 120A-D *infra*. As of De-

[2]—Services Covered by the Agency Sales and Service Contract

An insurance agency entering into the agreement undertakes to:

(1) solicit crop policies and acreage reports;

(2) counsel applicants on details of coverage, acreage reports, and procedures to adjust losses;

(3) accept notices of cancellation, premiums paid by farmers, assignments of indemnity, and transfers of right to indemnities from crop insurance; and

(4) assist farmers in the reporting of claims among others.[9]

These services are to be performed according to the rules and instructions of the corporation.

While the corporation remains responsible for the initial billing for premiums, the agency may receive payments from farmers,

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cember 1981, more than 50 organizations had signed Agency Sales and Service Agreements as shown by the history in the Federal Crop Insurance newsletter "All-Risk Update" published by the Federal Crop Insurance Corporation, Department of Agriculture, Washington, D.C. 20250.

[5] See Subpart C—Standards for Approval—Agency Sales and Service Agreement; Regulations for the Spring 1983 and Succeeding Crop Years, 7 C.F.R. Part 400, 47 Fed. Reg. 55886 (December 13, 1982).

[6] 7 C.F.R. § 400.32; 47 Fed. Reg. 55887 (December 13, 1982).

[7] 7 C.F.R. § 400.29; 47 Fed. Reg. 55887 (December 13, 1982).

[8] 7 C.F.R. § 400.33; 47 Fed. Reg. 55888 (December 13, 1982).

[9] Agency Sales and Service Contract, § III, Appendix 120A-D *infra*.

which must be kept separate from the agency's funds and transmitted to the corporation as specified in the Contract.[10]

The agency must carry out services performed for the corporation according to corporation guidelines. The agency must have a minimum of 25 representatives licensed by the states in which they conduct business.[11] These representatives must be certified by the corporation for each crop they insure. Additional training may be required by the corporation in certain instances.[12] This training must be conducted by corporation-accredited instructors.[13]

[3]—Compensation and Advances Under the Agency Sales and Service Contract

The agency is compensated under a formula set out in Appendix II attached to the Agency Sales and Service Contract. Subject to various adjustments specified in the agency contract, the basic rate of compensation is 15 percent of the base premium on each crop insured.[14] The agency's compensation is reduced $50.00 whenever the corporation itself has to obtain a farmer's acreage report and make an inspection to determine insurability of the acreage involved.[15] Funds collected in advance of due date may be paid only as provided in the agreement.[16]

[4]—Other Terms and Provisions of the Agency Sales and Service Contract

In addition to the foregoing provisions of the Agency Sales and Service Contract, the contract also obligates the agency to keep records and make reports as required, all of which may be audited by the corporation, the General Accounting Office, or any other federal agency authorized by law to do so.[17] The agency may not use any advertising except advertising furnished to it or approved in writing by the corporation.[18] It is to display corporation approved identification of it as an authorized service office.[19]

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[10] Agency Sales and Contract, § VI, Appendix 120A-D *infra.*

[11] Agency Sales and Service Contract, §§ II, IV, Appendix 120A-D *infra.*

[12] Agency Sales and Service Contract, § IV, Appendix 120A-D *infra.*

[13] *Ibid.*

[14] Appendix II to the Agency Sales and Service Contract, Appendix 120A-D.

[15] *Ibid.*

[16] *Ibid.*

[17] Agency Sales and Service Contract, § V, Appendix 120A–D *infra.*

The agreement continues in effect until cancelled by either party by written notice sent by certified or registered mail (return receipt requested) before August 1 for the following contract year.[20] The corporation may suspend the agency if the agency does not (1) have the minimum number of certified representatives, or (2) comply with established financial standards.[21] During the period of suspension, the corporation may decide to terminate the contract. It must give 60 days notice to the agency. The agency has the right to request, in writing, a redetermination of the corporation's decision.[22]

Appendix I to the Agreement contains standard clauses required in contracts of the Federal government for personal services, including:

(1) the member delegate clause;
(2) covenants against contingent fees;
(3) non-discrimination clause;
(4) Privacy Act notification clause;
(5) Privacy Act requirements;
(6) disputes clause under the Contract Disputes Act;
(7) listing of employment openings requirements;
(8) requirements concerning employment of the handicapped;
(9) requirements concerning utilization of women-owned business concerns;
(10) requirements concerning utilization of small business concerns and those owned and controlled by socially and economically disadvantaged individuals;
(11) requirements regarding utilization of labor surplus area concerns;

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[18] Agency Sales and Service Contract, § XIII, Appendix 120A–D *infra.*

[19] *Ibid.*

[20] Agency Sales and Service Contract, § X, Appendix 120A–D *infra.*

[21] Agency Sales and Service Contract, § XI, Appendix 120–D *infra.*

[22] *Ibid.*

(12) the clean air and water clause; and

(13) the requirements of the Service Contract Act of 1965, as amended.[23]

[5]—Sales Agreement

In addition to the sales and service agreements, the corporation also offers to qualifying private entities an agreement that permits sales activities only.[24] This agreement obligates the person contracting with the corporation to solicit crop policies and forward applications to the service office requested by the applicant, or in the absence of a request, to the service office designated by the corporation.[25] Sale agents must display appropriate program identification at their place of business identifying them as authorized representatives of the corporation, keep records and report information to the corporation.[26]

The corporation compensates authorized agents under Sales Agreements on the basis of a farmer's premiums for the first crop year.[27] The agent is entitled to receive 10 percent of the base premium per crop policy for all new crop policies sold.[28]

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[23] See Appendix I to the Agency Sales and Service Contract, Form FCIC-455. Copies may be obtained from the Federal Crop Insurance Corporation, Department of Agriculture, Washington, D.C. 20250.

[24] Sales Agreement, FCIC-439, (revised 7-81). A copy of the Sales Agreement appears as Appendix 120A-E *infra*.

[25] Sales Agreement, § 2, Appendix 120A-E *infra*.

[26] Sales Agreement, § 4, Appendix 120A-E *infra*.

[27] Sales Agreement, § 9, Appendix 120A-E *infra*.

[28] *Ibid*.

§ 120A.06 Claims for Indemnities and Adjustment of Losses

Both the policies and the appendices to the policies contain provisions relating to the perfection of claims for indemnities under the Federal Crop Insurance Program.[1] In general, the provisions in the policies outline the formulas and directions for computing indemnities for the type of commodity insured, while the appendices to the policies contain limitations on the filing of claims and specifications relating to the claims process.[2]

Loss adjustment determines the quantity and value by which the insured production falls short of the performance standard of the policy. The process is described in handbooks published by the corporation.[3] The service may be performed by personnel employed by the corporation or by service contractors appointed to perform the inspections and reporting functions required to complete the adjustment process.[4]

In general, the insured is required to give prompt notice of damage or loss to the service office; establish the production on the insured unit; establish that any loss of production has been directly caused by hazards insured against during the insurance period; furnish information as required; and keep records for two years of harvesting, storage, shipments, sale or other disposition of all production.[5]

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[1] See §§ 120A.03[3][b][iii]; 120A.03[3][c][v] *supra.* See also policies cited in § 120A.03[1], N. 3 *supra.*

[2] *Ibid.*

[3] Appraisal techniques are described in crop handbooks of the Corporation. See, e.g., handbooks such as: M8–Cotton; M8–Corn; M8–Wheat; M8–Florida Citrus; and other handbooks in the M8 series available from the Federal Crop Insurance Corporation, Department of Agriculture, Washington, D.C. 20250. General comments on loss adjustment may be found in Field Operations Handbook, M8–FO (5–81) and Regional Office Programs Operations Handbook, M8–RO–PO (5–81).

[4] Regional Office Program Operations Handbook ¶ 92, M8–RO–PO (5–81). Information about the terms and conditions of the Loss Adjustment and Contract Service Agreement, and a copy of the agreement, under which service contractors may participate in the loss adjustment business of the corporation were published in the Federal Register. 48 Fed. Reg. 10105 (March 10, 1983).

[5] Field Operations Handbook ¶ 61 *et seq.*, M8–FO (2–81).

Preliminary inspections are made before the amount of the loss can be determined with certainty and are required whenever the insured gives notice of damage before the time of harvest and requests consent to put the acreage to another use.[6] Preliminary inspections are also required for certain tobacco; for peas in some circumstances; for corn before harvest for silage; and for cotton when a loss is probable and the stalks will be destroyed before final inspection.[7]

Final inspections are made to determine the amount of the indemnity, if any, to be paid by the corporation.[8]

In addition, the corporation may initiate inspections to determine the adequacy of the insured's farming operations and practices, to determine damage from a cause operative in a specific area; to investigate cases where previous losses or farming practices have been questionable; and to obtain underwriting data.[9]

The acreage under cultivation must be determined correctly for proper loss adjustment. This may be done from aerial photographs utilizing formulas prescribed in handbooks published by the corporation or from measurements taken for other agricultural programs.[10]

The quantity of potential and unharvested production must be determined by appraisal processes that are described in crop handbooks issued by the corporation for the various crops insured.[11] For harvested and threshed crops, such as wheat, the quantities produced may be determined from production records. These records can be verified, if necessary, by examining production from comparable farms, evidence of yield, other operations of the insured, productive capacity of the land, and like indicia, including measurement of bulk storages where necessary.[12]

Farm visits may be waived for claims of $5,000 or less when all the acreage in a unit was harvested or appraised and all harvested production was sold, commercially stored, or accounted for by another agency.[13]

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[6] Field Operations Handbook § 65, M8–FO (2–81).

[7] *Ibid.*

[8] Field Operations Handbook § 65D, M8–FO (2–81).

[9] Field Operations Handbook § 65B, M8–FO (2–81).

[10] Field Operations Handbook §§ 83, 84, M8–FO (2–81).

[11] N. 3 *supra.*

[12] Field Operations Handbook §§ 94–105, M8–FO (2–81).

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[13] Regional Office Program Operations Handbook § 97, M8-RO-PO (5-81).

§ 120A.07 Criminal Provisions

The criminal provisions applicable to dealings with the corporation are contained in Title 18 of the United States Code and also apply to the activities of a number of other federal agencies.[1] The offenses defined are essentially business offenses such as embezzlement, conversion, and the overvaluation of securities.

The embezzlement statute reads in part:

> "Whoever, being an officer, agent or employee of or connected in any capacity with the . . . Federal Crop Insurance Corporation . . . and whoever, being a receiver of any such institution, or agent or employee of the receiver, embezzles, abstracts, purloins or willfully misapplies any moneys, funds, credit, securities or other things of value belonging to such institution or pledged or otherwise intrusted to its care, shall be fined not more than $5,000 or imprisoned not more than five years, or both; but if the amount or value embezzled abstracted, purloined or misapplied does not exceed $100, he shall be fined not more than $1,000 or imprisoned not more than one year, or both."[2]

The conversion statute is applicable to property mortgaged or pledged to or held by one or more government agencies, including the corporation. It reads in part:

> "Whoever, with intent to defraud, knowingly conceals, removes, disposes of, or converts to his own use or to that of another, any property mortgaged or pledged to, or held by, the . . . Federal Crop Insurance Corporation . . . shall be fined not more than $5,000 or imprisoned not more than five years, or both; but if the value of such property does not exceed $100, he shall be fined not more than $1,000 or imprisoned not more than one year, or both."[3]

Another statute is primarily directed at agents, employees or "persons connected in any capacity" with enumerated federal agencies, including the corporation, who may defraud the agencies by false statements or documents. The statute reads:

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[1] 18 U.S.C. §§ 657, 658, 1006, 1014, and 1903.

[2] 18 U.S.C. § 657. It has been held in cases involving lending institutions that the gravamen of the offense defined in this section is the fraudulent conduct of an officer in misapplying the funds of the institution. United States v. Hickey, 360 F.2d 903, 904 (7th Cir.), *cert. denied*, 385 U.S. 825 (1966).

[3] 18 U.S.C. § 658.

> "Whoever, being an officer, agent or employee of or connected in any capacity with the . . . Federal Crop Insurance Corporation . . . with intent to defraud any such institution or any other company, body politic or corporate, or any individual, or to deceive any officer, auditor, examiner or agent of any such institution or of department or agency of the United States, makes any false entry in any book, report or statement of or to any such institution, or without being duly authorized, draws any order or bill of exchange, makes any acceptance, or issues, puts forth or assigns any note, debenture, bond or other obligation, or draft, bill of exchange, mortgage, judgment, or decree, or, with intent to defraud the United States or any agency thereof, or any corporation, institution, or association referred to in this section, participates or shares in or receives directly or indirectly any money, profit, property, or benefits through any transaction, loan, commission, contract, or any other act of any such corporation, institution, or association, shall be fined not more than $10,000 or imprisoned not more than five years, or both."[4]

It is also a crime to overvalue a security or make a false statement in connection with a report on such matters:

> "Whoever knowingly makes any false statement or report, or willfully overvalues any land, property or security, for the purpose of influencing in any way the action of the . . . Federal Crop Insurance Corporation . . . upon any application, advance, discount, purchase, purchase agreement, repurchase agreement, commitment, or loan, or any change or extension of any of the same, by renewal, deferment of action or otherwise, or the accep-

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[4] 18 U.S.C. § 1006.

In a suit involving a federally chartered Production Credit Association, the court found four elements to be required to establish a violation of 18 U.S.C. § 1006:

> "(1) that the defendant is an officer or employee of a lending institution organized under the laws of the United States; (2) that the defendant participated, shared in or received either, directly or indirectly, money, profit or benefit by and through any transaction of such institution; (3) that the defendant did such act or acts with intent to defraud the association; and (4) that such act or acts were done knowingly and willfully." United States v. Griffin, 579 F.2d 1104, 1108 (8th Cir. 1978).

> tance, release, or substitution of security therefor, shall be fined not more than $5,000 or imprisoned not more than two years, or both."[5]

In addition to the provision that defines crimes against a number of agencies and institutions, the United States Code also provides:

> "Whoever, while acting in any official capacity in the administration of any Act of Congress relating to crop insurance or to the Federal Crop Insurance Corporation speculates in any agricultural commodity or product thereof, to which such enactments apply, or in contracts relating thereto or in the stock or membership interests of any association or corporation engaged in handling, processing, or disposing of any such commodity or product, shall be fined not more than $10,000 or imprisoned for not more than two years, or both."[6]

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[5] 18 U.S.C. § 1014. This statute was held to be constitutional is a case involving a bank insured by the Federal Deposit Insurance Corporation. See United States v. Stoddart, 574 F.2d 1050, 1056 (10th Cir. 1978).

The statute is designed to prevent false statements in loan and credit applications and, by inference, crop insurance applications, so the only *mens rea* required is that the defendants act with knowledge of the falsity for the purpose of influencing the institution covered by the statute. See United States v. Lenty, 524 F.2d 69, 71 (5th Cir. 1976); United States v. Sabatino, 485 F.2d 540, 544 (2d Cir. 1973).

The essence of the offense is the making of the false statement with the requisite intent to influence; reliance on the false statement is not required. United States v. Phillip, 606 F.2d 884, 886 (9th Cir. 1979). Answers left deliberately incomplete to questions on application forms of government agencies covered by 18 U.S.C. § 1014 may give rise to criminal liability. United States v. Rapaport, 545 F.2d 802, 806 (2d Cir. 1976).

[6] 18 U.S.C. § 1903.

APPENDIX H

STATISTICAL INFORMATION

This appendix contains all the figures and tables presented in the Recommendations and Findings section of this report. In addition, this appendix contains other figures and tables setting out statistical information relating to the Federal crop insurance program and other farm programs.

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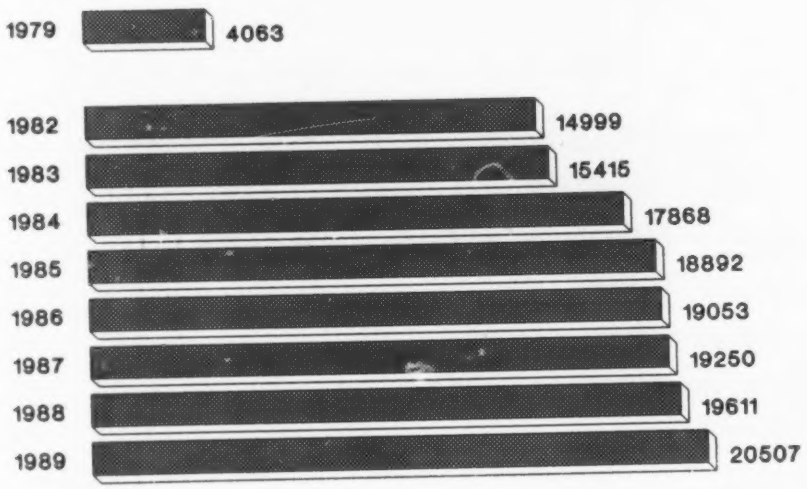
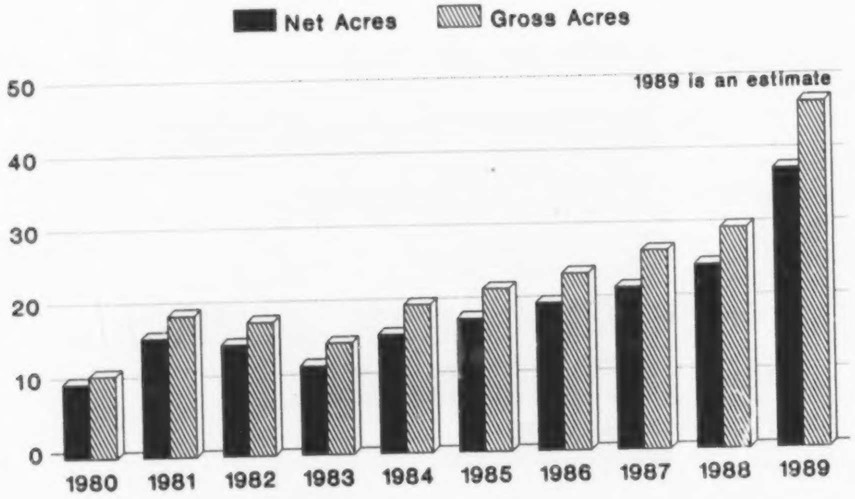
Figure 29:	Dollar Amount of Protection at the 65 and 75 Percent of Yield Coverage Levels, 1983–1988 Crop Years

Fig. 1: Growth in County Programs
Total Number of County Programs



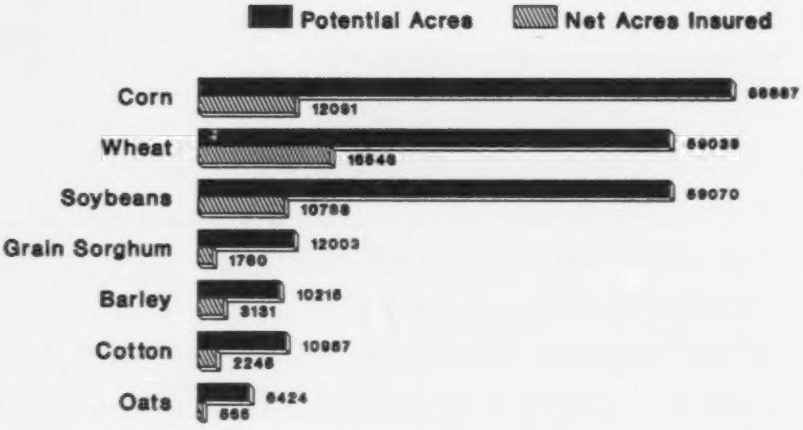
Years are crop years

Fig. 2: Growth in Participation: Net and Gross Insured Acres for 1980-89 Crops



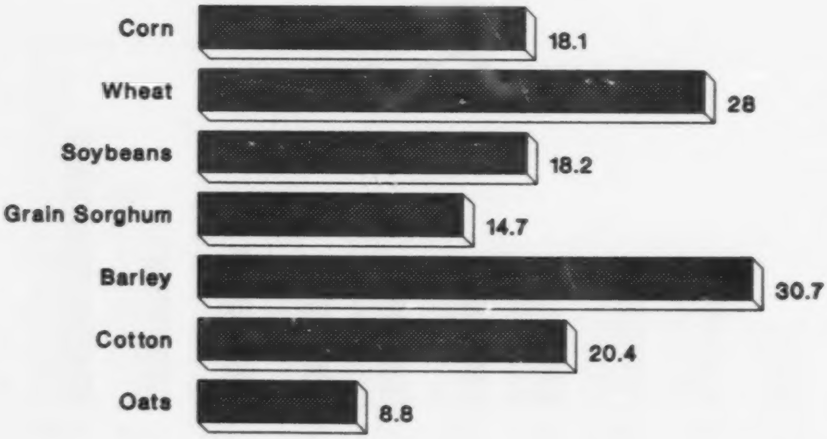
Net acres as percent of potential acres
Gross acres as percent of planted acres

Fig. 3: Major U.S. Commodities: 1986-88 Crops Average Potential & Insured Acres (acres in thousands)



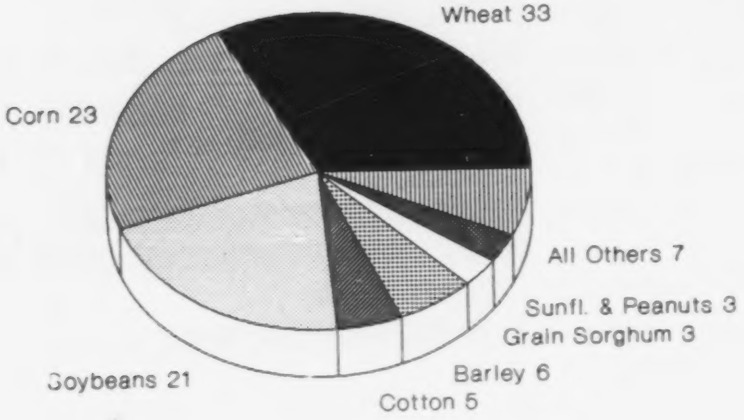
Oats acreage is 1988 crop only

Fig. 4: Participation Rates for Major Commodities -- 1986-88 Average Net Insured Acres as Compared to Potential



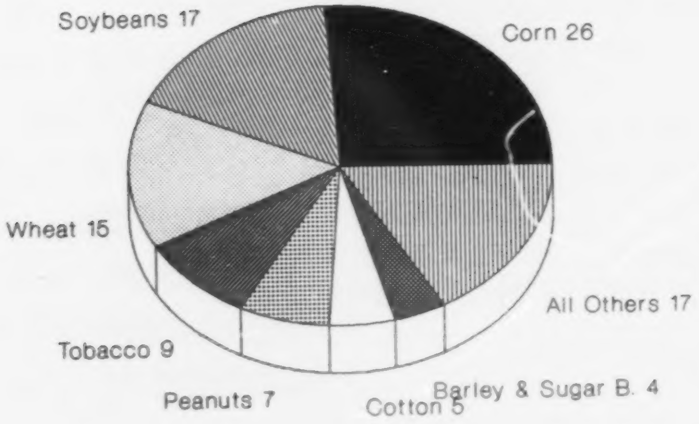
Oats acreage is 1988 crop only

Fig. 5: Share of Insurance by Acre: Commodities with Highest Number of Acres in Crop Year 1988



(Percent of all acres insured)

Fig. 6: Insurance Share by Value: Commodities with Highest Value in Crop Year 1988



(Percent of total value insured)

Fig. 7: 1988 Participation Rates for Eight Crops With Highest Acreage & Value (Net acres as a percent of potential)

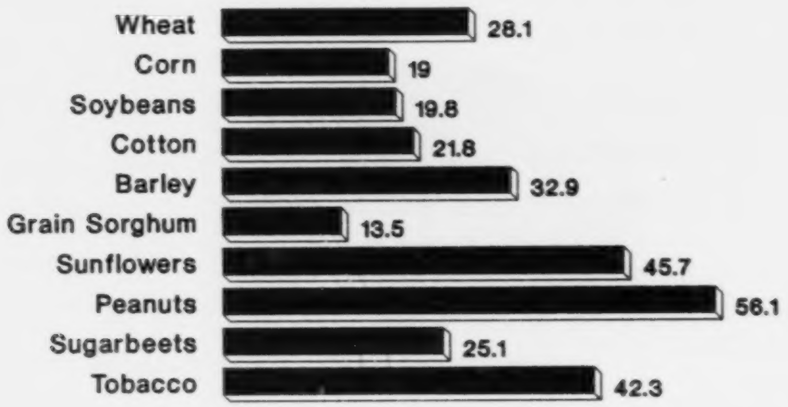
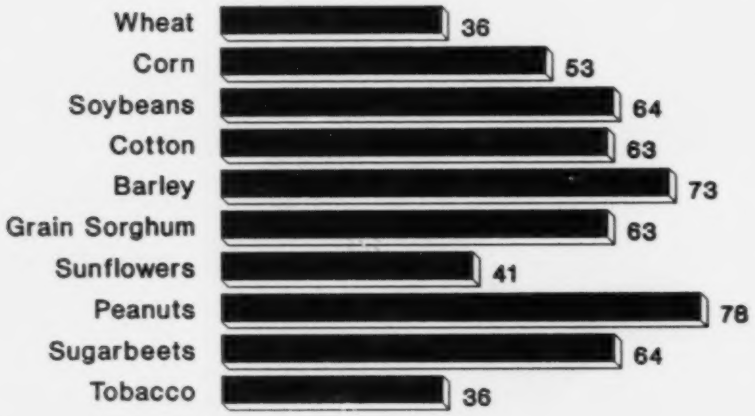
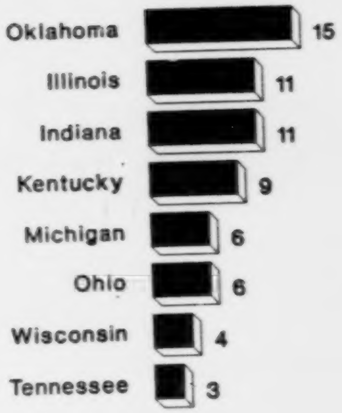


Fig. 8: Increases in Participation Since Federal Crop Insurance Act of 1980



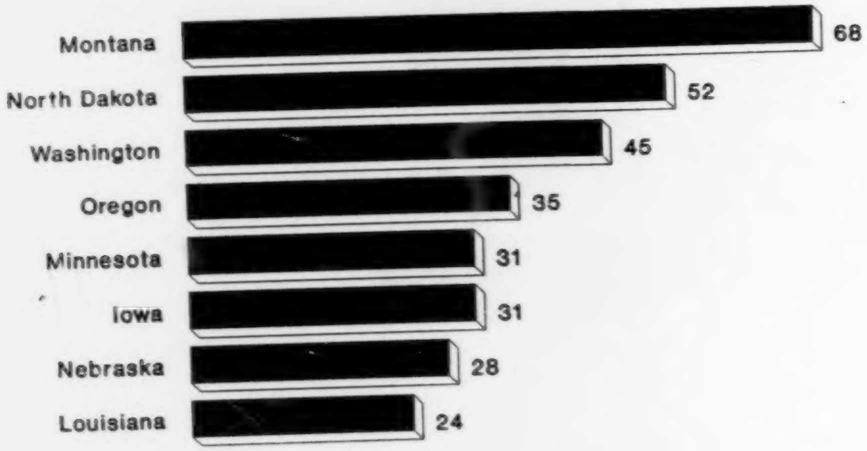
Percent Increase in Participation
1980 Compared to 1988

Fig. 9: States with Low Participation
(Net insured acres as a percent of
all planted acres except hay acres)



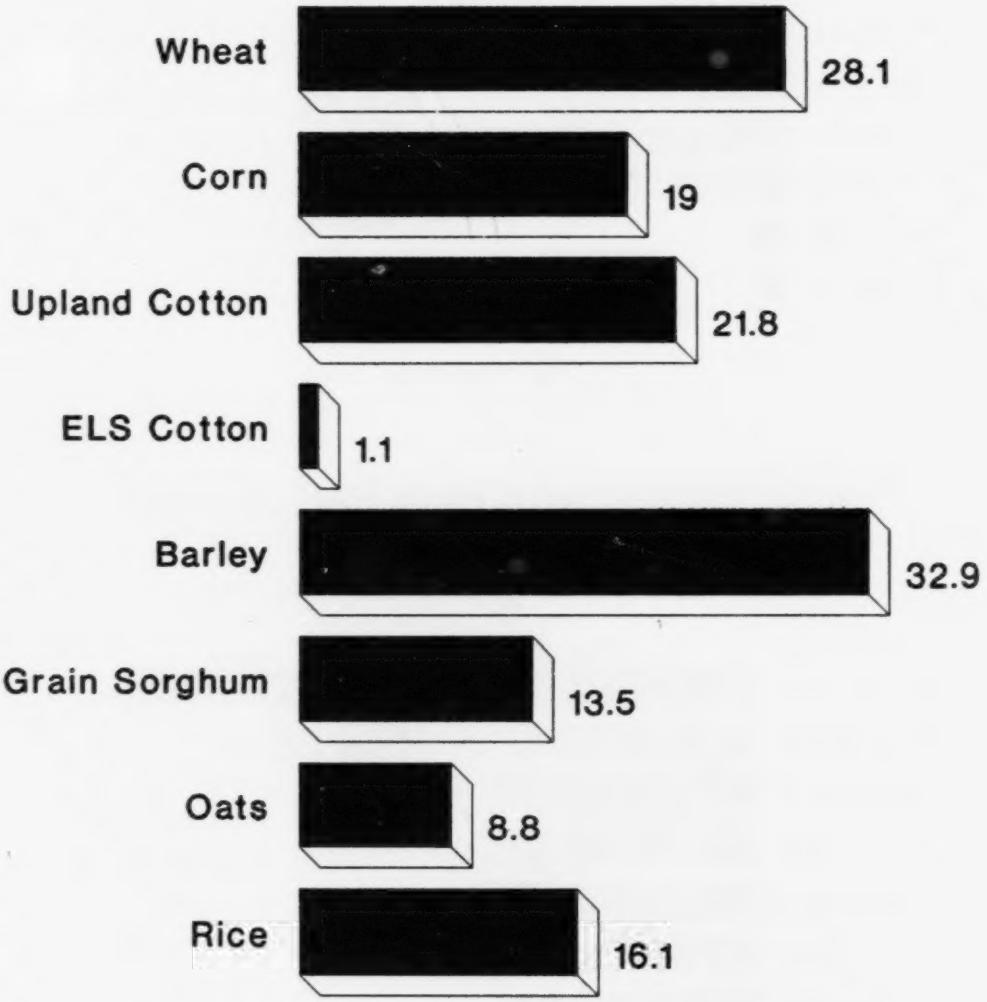
For 1988 Crop Year

Fig. 10: States with High Participation
(Net insured acres as a percent of
all planted acres except hay acres)



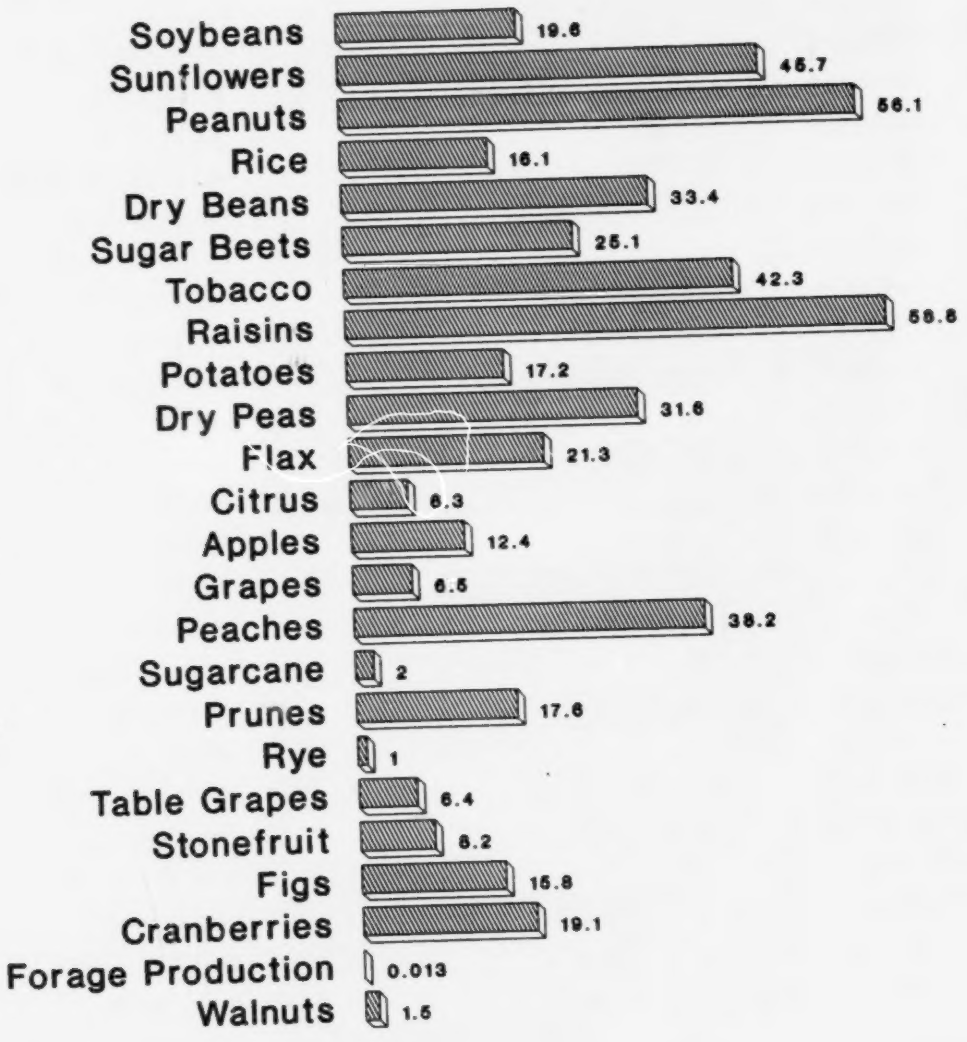
For 1988 Crops

Fig. 11: Participation for ASCS Program Commodities with Target Prices (Net insured acres compared to planted acres)



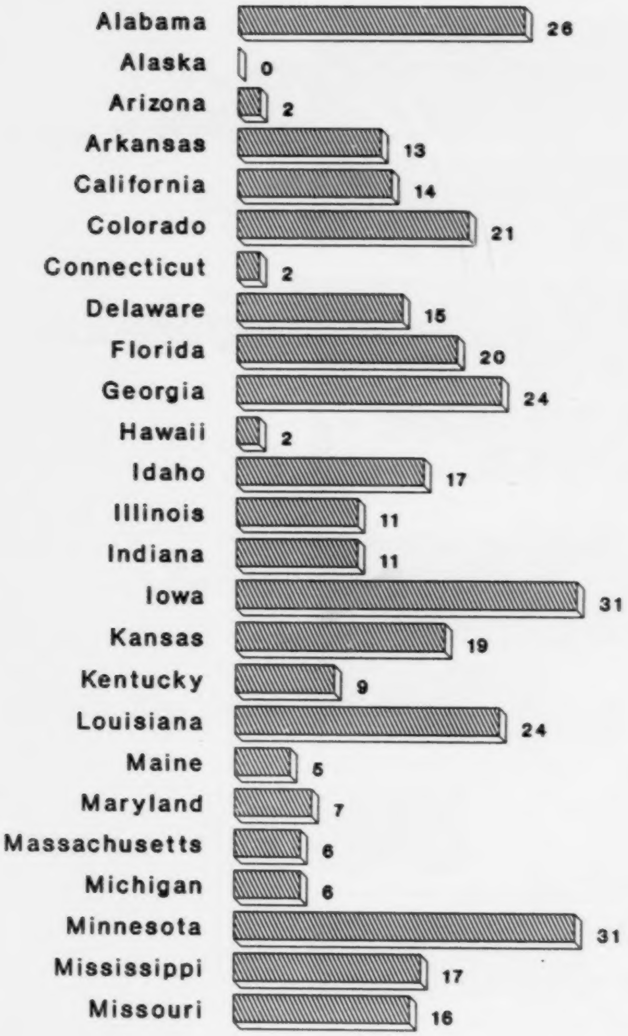
1988 Crop Year

Fig. 12: Participation Rates for Non-ASCS Commodities (Net insured acres as a percent of planted acres)



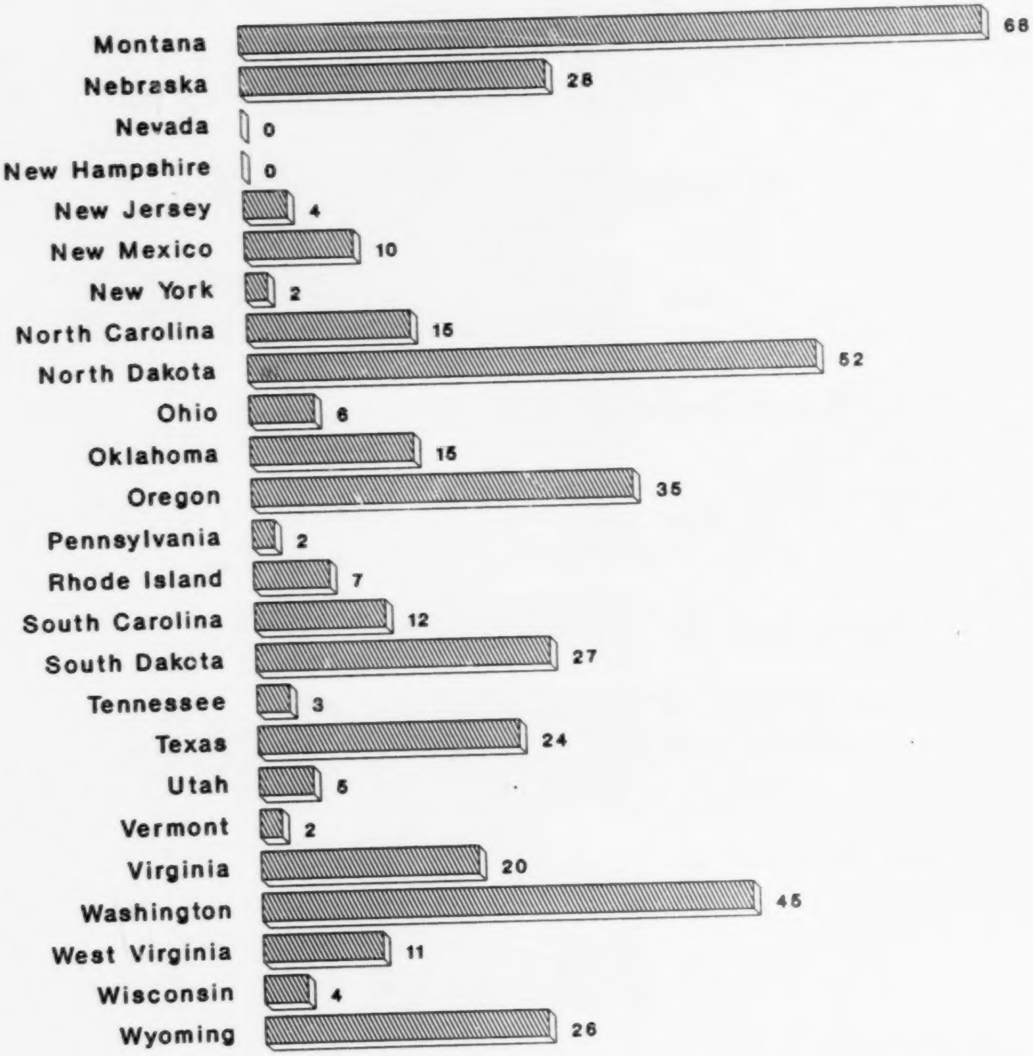
1988 Crop Year

Fig. 13: 1988 Crop Year Participation Rate by State (Net insured acres as a percent of planted acres)



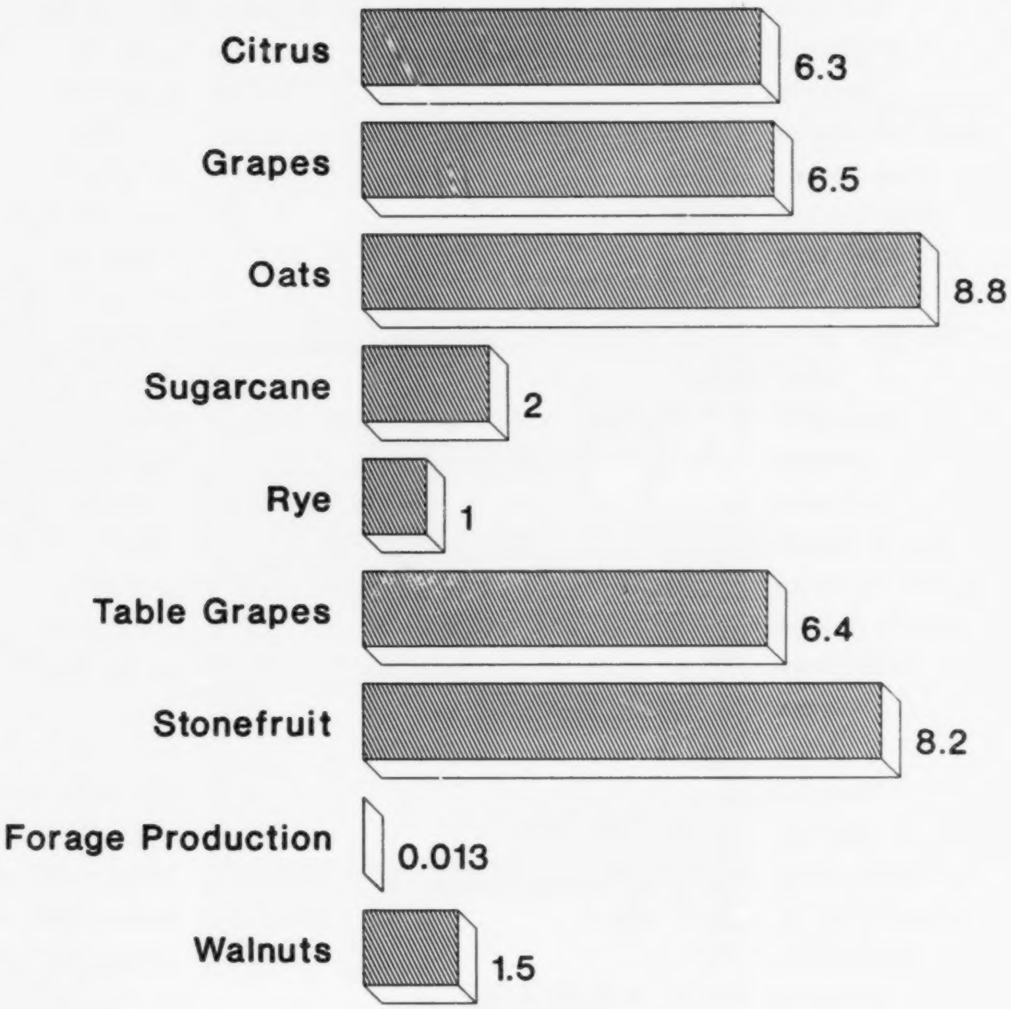
(Alabama through Missouri)

Fig. 14: 1988 Crop Year Participation Rate by State (Net insured acres as a percent of planted acres)



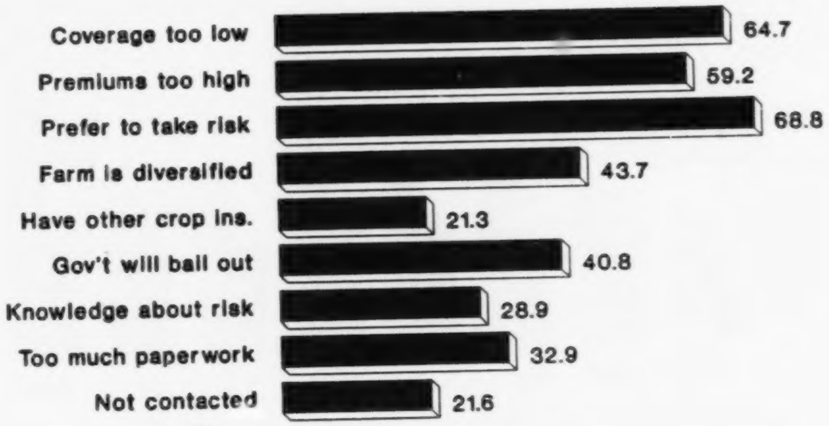
(Montana through Wyoming)

Fig. 15: Participation Rates for Commodities With Less Than 10 Percent of the Planted Acres Insured



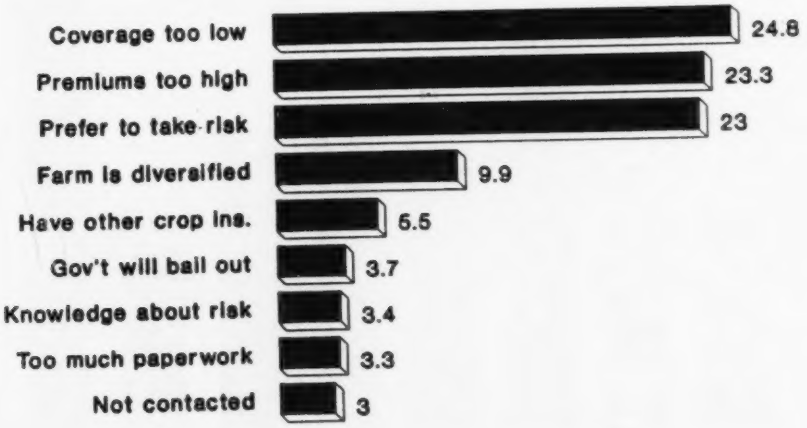
1988 Crop Year

Fig. 16: Percent of Farmers Ranking the Reason They Did Not Buy Federal Crop Insurance



Preliminary From National Survey by ERS

Fig. 17: Percent of Farmers Ranking The #1 Reason They Do Not Buy Federal Crop Insurance



Preliminary From National Survey by ERS

Fig. 18: Loss Experience Compared to Total Premium for Federal Crop Insurance

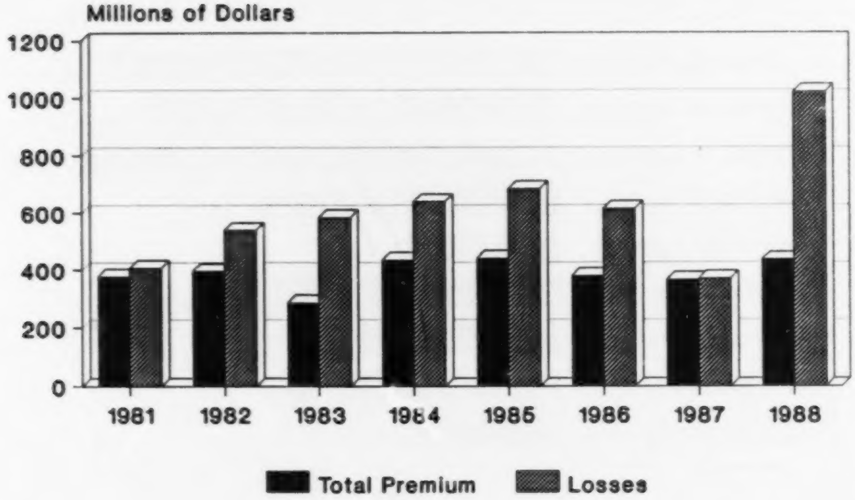


Fig. 19: Loss Ratios for Federal Crop Insurance

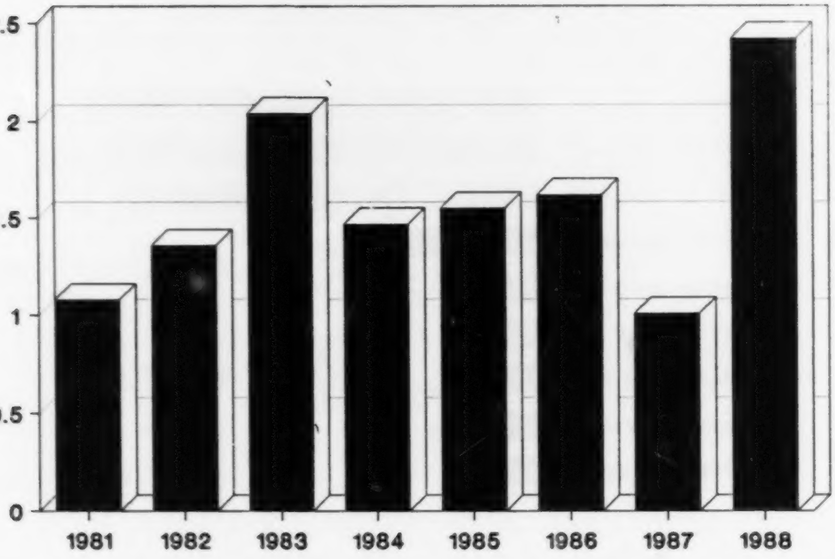
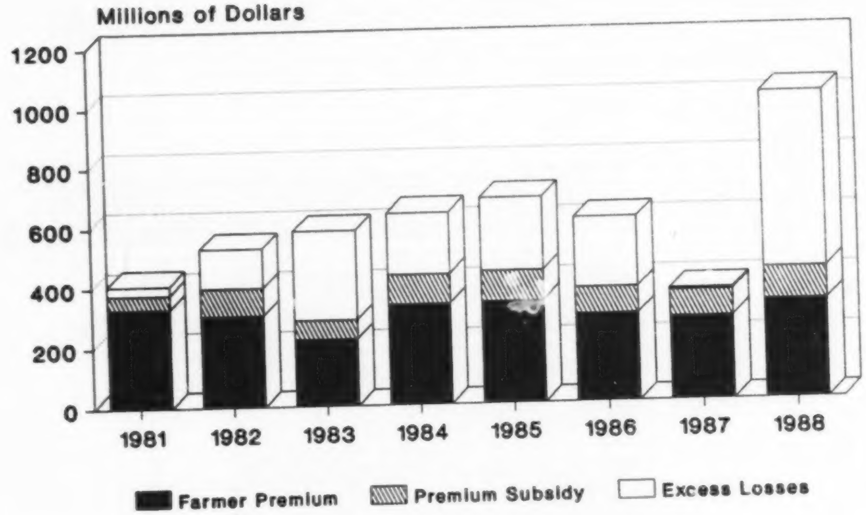
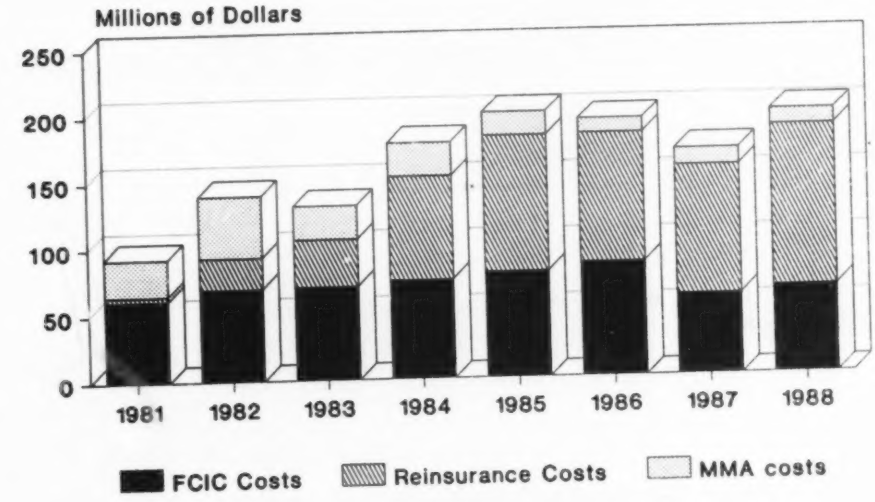


Fig. 20: Premium Subsidies and Excess Losses -- Federal Crop Insurance Program



Values Based on Crop Year

Fig. 21: Administrative Costs Associated With Federal Crop Insurance Program



All Values are in Fiscal Year
1981 Provides Agent Costs-not MMA Costs

Fig. 22: Percent of Program Costs Paid by Farmers (1981-1988)

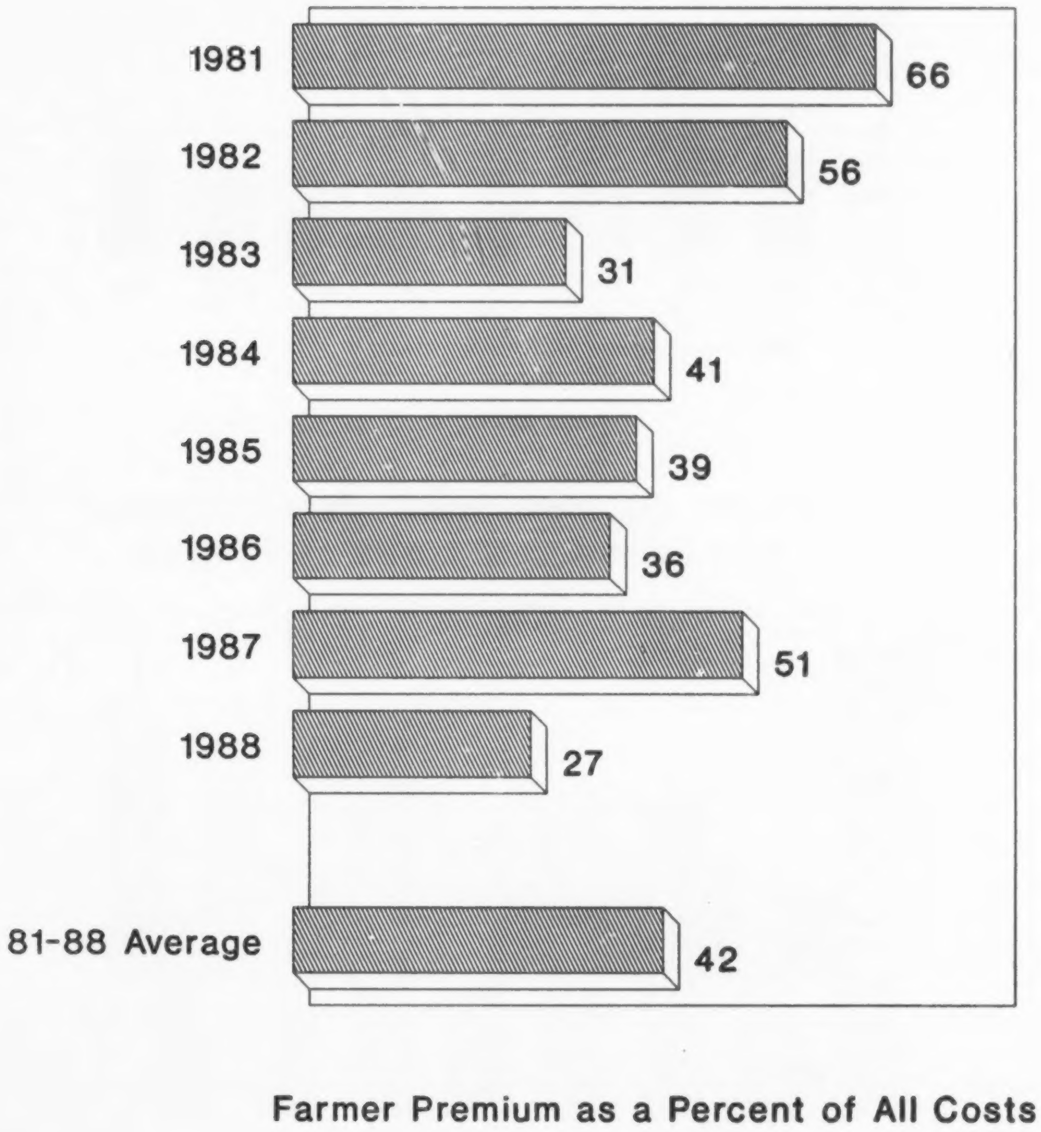


Fig. 23: Average Premium Paid Per Net Acre Insured, 1988 Crop Year (Dollars Per Acre)

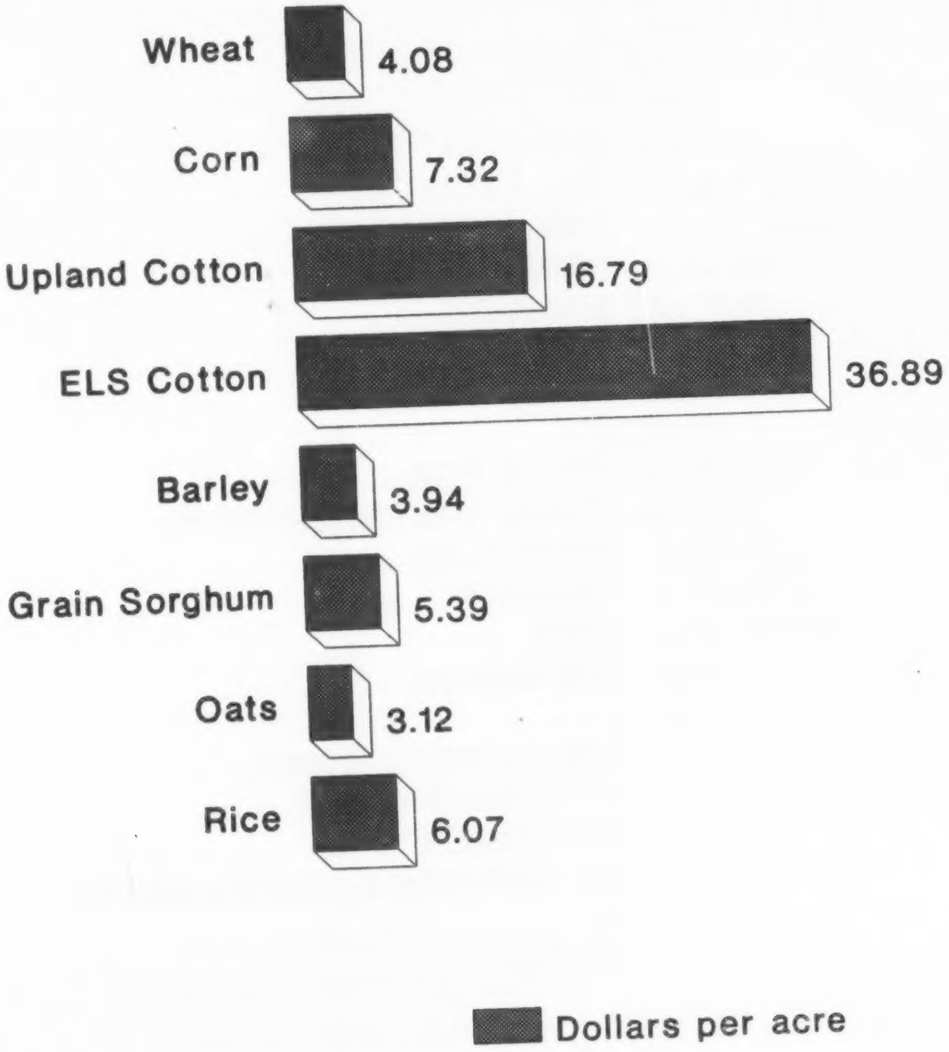


Fig. 24: Average Premium Paid Per Net Acre Insured, 1988 Crop Year (Dollars Per Acre)

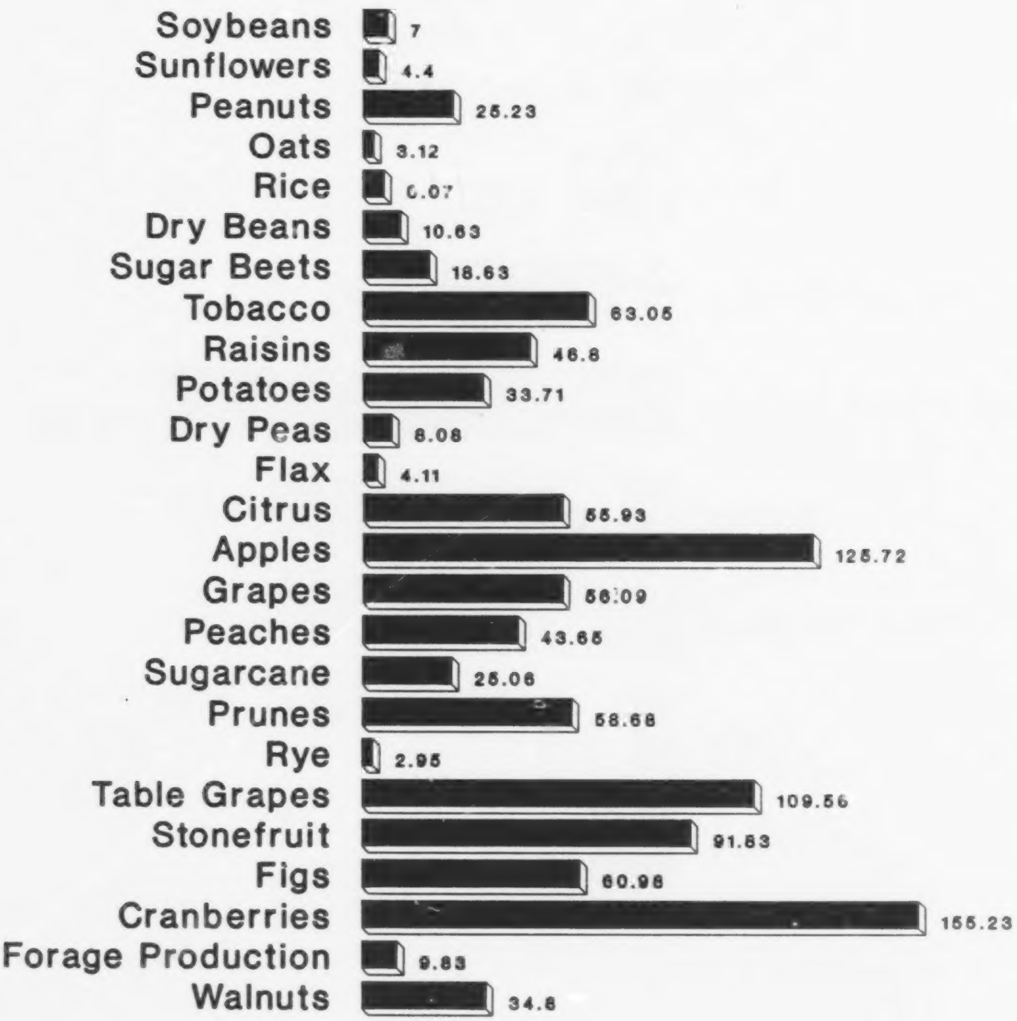


Fig. 25: Average Premium Rate Paid per $100 of Protection for 1988 Crop Year

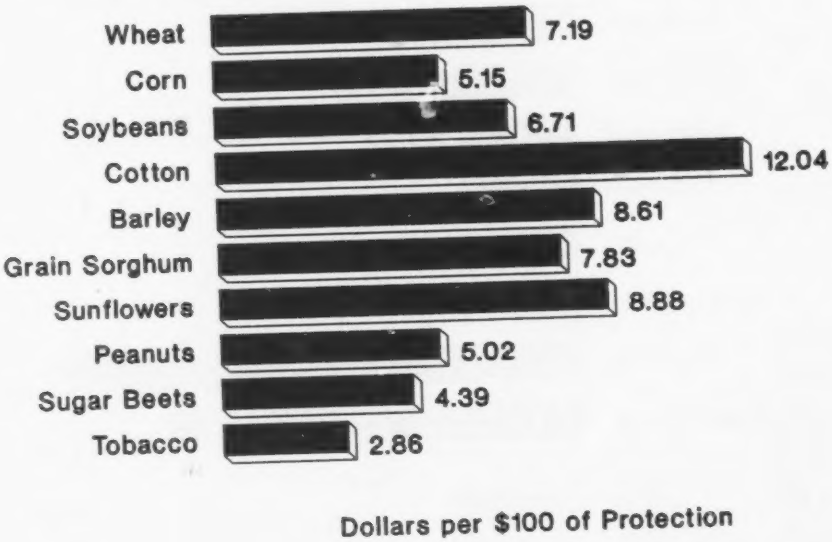


Fig. 26: Average Premium Cost Per Acre for 1988 Crop Year

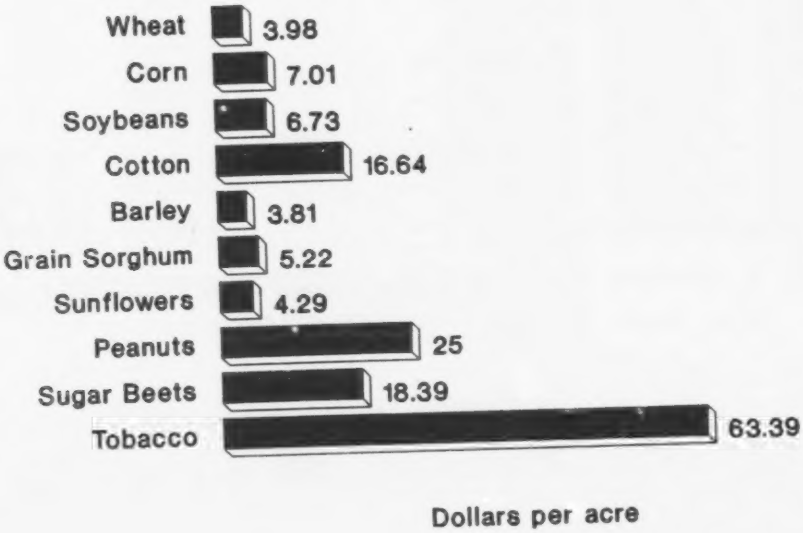


Fig. 27: Average Protection per Acre for 1987 Crop Year

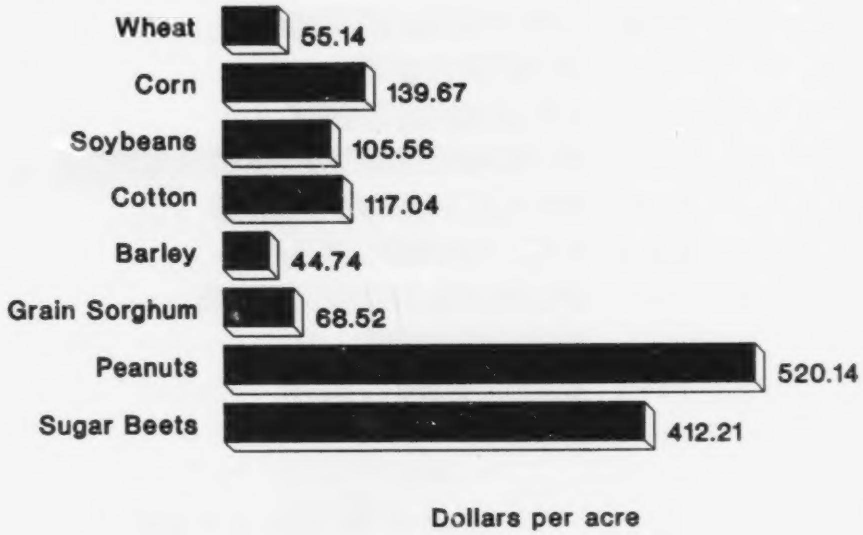


Fig. 28: Protection in Force vs. Variable Costs of Production in 1987

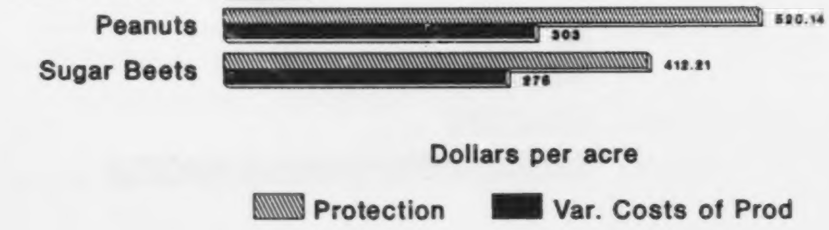


Fig. 29: Dollar Amount of Protection at the 65 and 75 Percent of Yield Coverage Levels, 1983-1988 Crop years

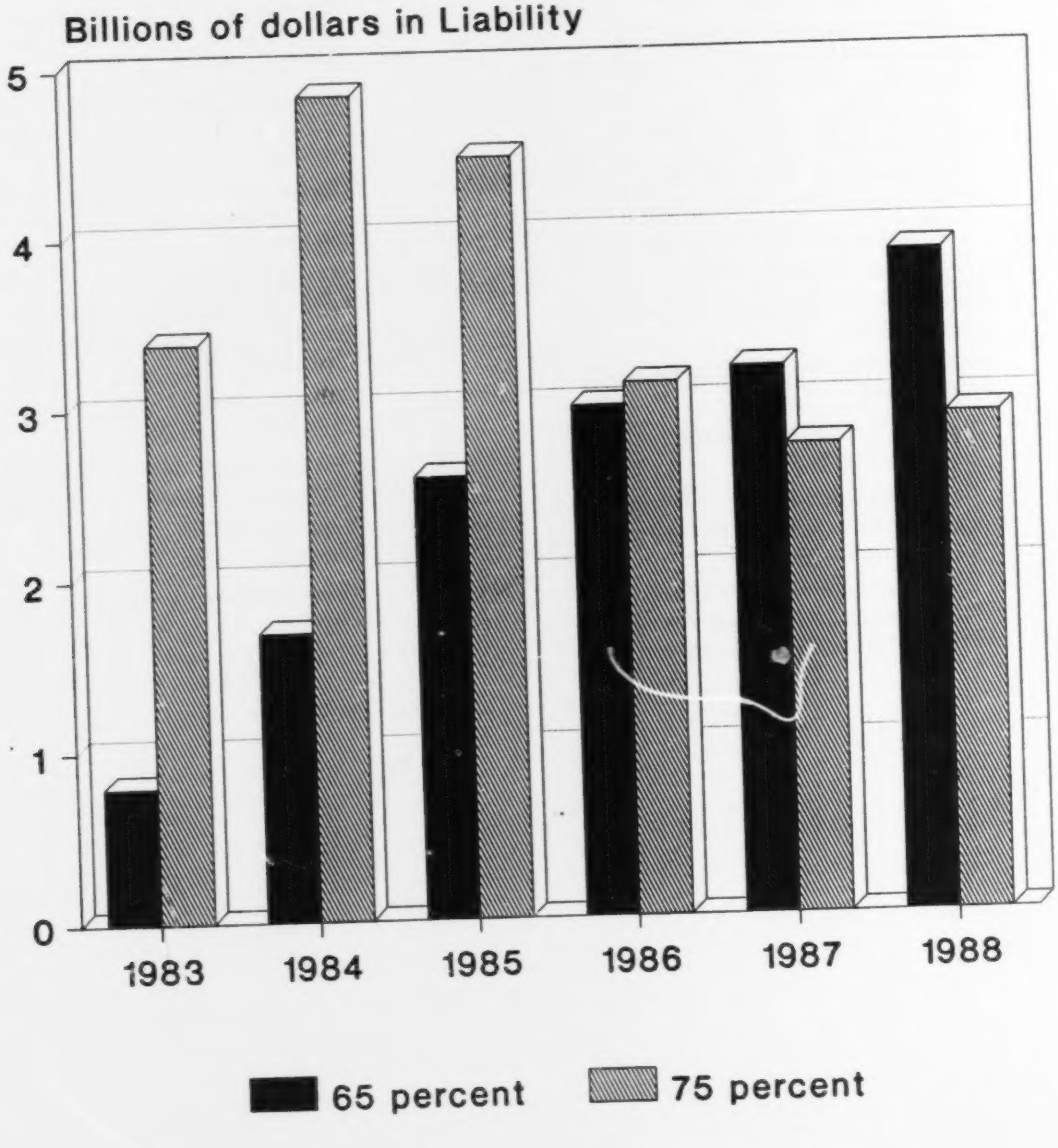


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Table 1. Commodities Ranked By Net Acres Insured in the 1988 Crop Year

Commodity	*Net Insured Acres*	*Average Premium / Ac*
Wheat	18,439,042	$ 4.09
Corn	12,849,387	7.32
Soybeans	11,520,114	7.00
Cotton, Upland	2,679,655	16.79
Barley	3,184,097	3.94
Grain Sorghum	1,398,764	5.39
Sunflowers	886,091	4.40
Peanuts	907,802	25.23
Oats	555,630	3.12
Rice	470,807	6.07
Dry Beans	500,849	10.63
Hybrid Corn Seed	258,390	25.88
Sugar Beets	333,609	18.63
Tobacco	267,443	63.05
Raisins	220,541	47.80
Potatoes	196,708	33.71
Sweet Corn	109,165	11.01
Green Peas	96,366	12.14
Almonds	91,701	65.09
Dry Peas	57,260	8.08
Flax	58,477	4.11
Tomatoes	59,517	62.12
Citrus	52,774	55.93
Popcorn	42,290	10.78
Apples	46,181	125.72
Grapes	43,089	56.09
Peaches	35,880	43.65
Safflower	24,842	3.41
Fresh Market Sweet Corn	20,651	23.09
Citrus Trees	19,497	74.43
Fresh Market Tomatoes	18,273	248.16
Sugarcane	16,751	25.06
Prunes	13,169	58.68
Canning Beans	9,104	17.98
Rye	5,849	2.95
Onions	6,869	43.06
Table Grapes	5,341	109.56
Stonefruit	4,417	91.83
Figs	2,850	60.99
Cranberries	4,002	155.23
Hybrid Sorghum Seed	2,635	37.03
Forage Production	3,378	9.83
Peppers	3,135	218.93
Walnuts	2,747	34.80
Extra Long Staple Cotton	2,196	36.89
Forage Seeding	837	3.87
Macadamia Nuts	782	47.09
Macadamia Trees	782	209.95

Table 2. Value of Federal Crop Insurance and Private Hail Insurance Coverage for 1988 Crop Year

State	*Federal Crop Insurance—Value of Coverage*	*Private Hail Insurance—Value of Coverage*
	—Dollars in Thousands—	
Alabama	$129,952	$14,146
Alaska	0	0
Arizona	8,273	291,970
Arkansas	94,694	207,770
California	362,641	30,822
Colorado	81,524	59,694
Connecticut	1,348	21
Delaware	13,145	581
Florida	115,647	18,565
Georgia	295,199	47,353
Hawaii	11,727	0
Idaho	92,071	269,792
Illinois	348,042	1,201,389
Indiana	171,803	396,634
Iowa	981,253	868,311
Kansas	225,459	378,866
Kentucky	79,374	25,169
Louisiana	104,148	2,867
Maine	4,643	10
Maryland	11,017	2,266
Massachusetts	5,306	27
Michigan	54,792	79,324
Minnesota	610,031	534,138
Mississippi	82,911	17,067
Missouri	137,367	124,789
Montana	227,532	50,035
Nebraska	490,550	452,176
Nevada	0	4,263
New Hampshire	0	0
New Jersey	2,683	367
New Mexico	6,258	19,709
New York	9,506	763
North Carolina	435,703	297,840
North Dakota	470,886	355,122
Ohio	76,541	80,265
Oklahoma	72,366	43,753
Oregon	42,674	96,557
Pennsylvania	101,583	2,166
Rhode Island	387	0
South Carolina	94,160	43,810
South Dakota	168,952	110,867
Tennessee	16,237	16,645
Texas	429,678	351,021
Utah	2,400	4,669
Vermont	1,006	599
Virginia	117,090	49,007
Washington	180,454	278,479
West Virginia	2,533	0
Wisconsin	45,352	192,423
Wyoming	17,988	11,149
TOTAL FOR U.S	6,943,445	7,033,256

Table 3: Value of Federal Crop Insurance and Private Hail Insurance Coverage For ASCS Program Commodities With Target Prices

ASCS Program Commodity	*Value of Coverage Under Federal Crop Insurance*	*Value of Coverage Under Private Hail Insurance*
	—Dollars in thousands—	
Wheat	$1,048,457	$1,116,651
Corn	1,811,579	2,268,694
Upland Cotton	372,033	557,491
ELS Cotton	1,168	98,389
Barley	145,595	235,108
Grain Sorghum	96,425	104,105
Oats	16,750	44,003
Rice	97,303	68,886

Table 4: Loss Ratios for the Federal Crop Insurance Program by Year (FCIC Data*)

	1981	1982	1983	1984	1985	1986	1987	1988	1981-88	1948-80
Wheat	0.97	0.88	0.88	1.60	2.47	1.70	1.03	3.93	1.71	1.05
Cotton	1.11	1.88	1.71	1.64	0.55	2.80	0.48	0.88	1.32	1.57
Combined Crop	0.17	0.32	0.62	0.10	0.60	1.16	1.12		0.41	1.18
Tobacco	0.89	0.99	2.95	0.50	0.59	1.73	1.52	0.90	1.24	1.04
Corn	0.58	0.52	2.72	0.89	0.62	0.83	0.59	3.19	1.15	1.08
Flax	0.89	1.22	0.88	0.81	1.15	1.32	0.92	4.55	1.24	0.89
Bean	1.01	2.99	1.34	1.17	2.13	1.31	1.85	1.92	1.79	0.92
Citrus	2.23	0.08	0.00	2.71	3.39	0.56	0.14	0.33	1.39	1.40
Soybean	1.80	2.01	2.47	1.89	1.73	2.04	1.32	1.93	1.90	0.89
Barley	0.82	0.63	0.85	2.12	4.38	1.88	1.24	4.79	2.41	0.95
Peaches	0.35	3.58	3.01	0.90	2.70	2.41	2.18	2.34	2.27	1.25
Grain Sorghum	0.93	1.15	1.99	2.50	1.68	1.88	1.08	1.37	1.62	1.05
Oats	1.42	0.59	0.76	1.24	1.48	1.73	1.34	5.63	1.81	0.84
Rice	1.86	3.35	4.07	1.54	2.69	2.79	2.69	2.63	2.71	1.47
Raisins	0.00	6.28	1.16	0.48	0.15	0.06	0.00	0.00	0.80	1.01
Peas	0.68	0.69	0.94	0.91	0.93	0.74	0.56	0.40	0.75	1.27
Peanuts	0.62	0.80	3.03	0.83	0.97	2.81	2.27	1.51	1.64	1.35
Potatoes	1.36	1.29	2.74	2.73	2.68	3.06	2.43	2.86	2.76	2.06
Apples	1.54	1.64	1.50	1.63	2.73	2.53	0.88	2.21	1.94	1.27
Cherries										2.61
Tomatoes	0.40	2.56	1.39	1.05	0.64	0.52	0.31	0.68	0.78	0.75
Safflower							1.00	4.01	2.50	1.15
Sugar Beets	0.75	0.41	0.77	0.79	1.03	1.06	0.60	1.98	1.11	0.77
Tung Nut										0.74
Grapes	0.85	2.28	2.57	0.95	0.79	0.73	0.39	0.18	1.34	0.99
Sugar Cane	1.22	0.80	4.93	2.24	0.85	0.19	0.20	0.06	1.73	0.86
P. Rico Reins.			0.37	2.70	0.00	0.08	0.00	0.00	1.17	0.00
Sunflowers	0.72	1.42	1.08	1.55	3.80	1.57	0.55	2.22	1.62	1.03
Forage Seed	4.38	2.70	0.99	1.67	1.48	1.65	0.89	1.57	2.40	4.88
Sweet Corn	1.12	0.51	1.39	0.45	0.86	0.51	0.50	1.75	0.77	0.59
Forage Prod.	3.15	2.12	2.86	1.30	2.97	0.00	0.00	2.66	2.53	2.00
Rye	0.00	0.47	0.40	0.37	0.97	0.68	0.75	3.64	0.88	1.00
Almonds	0.02	0.75	3.43	0.01	1.04	5.68	0.14	0.95	1.34	
Prev. Planting		5.62	1.31	0.40	1.97	8.85	0.00	0.00	5.67	
Hybrid Seed			13.21	3.04	0.68	0.71	0.95	5.14	2.10	
Citrus Tree			0.00	22.50	0.77	0.09	0.00	0.00	3.36	
Table Grapes				3.08	1.47	0.87	0.36	0.61	1.60	
Peppers				1.38	3.72	1.49	0.21	0.61	1.23	
Popcorn				3.26	2.08	1.97	0.59	2.68	2.14	
Fresh Tomatoes				6.12	5.90	1.30	0.57	0.23	1.52	
Walnuts				0.78	0.06	2.98	0.15	0.25	0.84	
Cranberries				0.53	0.19	1.37	0.76	0.88	0.81	
Nursery Stock				0.00	0.00	0.00	0.04	0.00	0.01	
Cotton, ELS				0.00	0.00	0.00	1.33	0.56	0.49	
Sw Corn, Fresh					2.72	1.60	1.36	1.75	1.64	
Peaches, Canning						0.93	0.09	0.00	0.69	
Prunes						6.98	0.17	2.01	2.52	
Prev. Plant. End.						17.68	0.00	0.00	16.36	
Bean, Cann/Proc								2.39	2.39	
Figs								1.00	1.00	
Macadamia Nuts								0.00	0.00	
Macadamia Tree								0.00	0.00	
Onions								2.38	2.38	
Stonefruit								1.30	1.30	
ALL PROGRAMS	1.08	1.34	2.02	1.47	1.55	1.62	1.01	2.42	1.56	1.10

*Best available data as of July 1989.

Table 5: Nature and Extent of All Government Costs

			Administrative & Operating Costs			
Yr	Premium Subsidy	Excess Losses	FCIC Costs	MMA Costs	Reinsurance Costs	Total Costs
1981	$46,995	$30,471	$60,630	$27,658	$3,663	$169,417
1982	91,990	132,250	69,190	46,978	23,138	363,546
1983	63,669	297,971	69,745	25,958	35,603	492,946
1984	98,296	204,314	73,632	25,235	78,887	480,364
1985	100,224	242,438	79,009	17,711	102,888	542,270
1986	88,043	233,806	85,027	10,765	97,711	515,352
1987	87,536	4,669	60,046	12,700	97,148	262,099
1988	107,830	585,678	65,077	11,700	121,545	891,830
Total	684,583	1,731,597	562,356	178,705	560,583	3,717,502
Avg.	85,573	216,450	70,294	22,338	70,072	464,728

All dollar amounts are presented in thousands.Data were developed from FCIC data.Premium subsidies and excess losses are based on crop year data.Administrative and operating costs are based on fiscal year data.The 1981 cost under the MMA heading are direct agent costs as Master Marketers began serving in 1982.

Table 6: Average Cost Per Net Acre Enrolled, 1981—1988

Year	Total costs	Total less excess loss	Total less administrative	Premium per acre
1981—	$3.77	$3.09	$2.21	$1.04
1982—	$8.51	$5.41	$6.00	$2.15
1983—	$17.65	$6.98	$13.10	$2.28
1984—	$11.26	$6.47	$7.26	$2.30
1985—	$11.17	$6.18	$7.01	$2.07
1986—	$10.60	$5.79	$6.46	$1.81
1987—	$5.34	$5.24	$2.02	$1.78
1988—	$16.05	$5.51	$11.99	$1.94

Table 7. Percent of Lenders Encouraging Borrowers to Purchase

	Borrower Risk Class				
Lender type	Superior	Good	Average	Weak	Inferior
All Lenders	14.9	21.0	42.5	59.1	61.9
FmHA	64.5	64.5	77.4	77.4	77.4
FCS	0.0	0.0	16.7	66.7	75.0
All Banks	5.1	13.0	37.0	54.3	57.2

FmHA—Farmers Home Administration
FCS—Farm Credit System

Table 8. Estimated Costs Under Different Participation Levels With Current Subsidy Arrangement
(dollar amounts in millions)

Acres (Percent)	*Total Premium*	*MMA & Reinsured*	*Premium Subsidy*	*Fixed Costs*	*Total Costs*
40	$ 738	$251	$184	$314	$750
50	922	314	231	314	858
60	1,107	376	277	314	967
70	1,292	439	323	314	1,076

Table 9. Estimated Costs Under Different Participation Levels: First Year of Proposed Subsidy Arrangement
(dollar amounts in millions)

Acres (Percent)	*Total Premium*	*MMA & Reinsured*	*Premium Subsidy*	*Fixed Costs*	*Total Costs*
40	$762	$259	$348	$314	$923
50	952	324	438	314	1,075
60	1,142	388	526	314	1,228
70	1,332	453	613	314	1,380

Table 10. 5-Year Participation at Different Coverage Levels, Premium Costs, and Subsidies Under Commission's Subsidy Proposal

	Percent of Premiums for Coverage at		*Average Premium $/acre*	*Premium Subsidy:* 5-year Reduction*	*Weighted Subsidy Percent*
Year	*65 Percent Level*	*75 Percent Level*			
1991	55	45	$8.00	50%	46
1992	50	50	8.15	46	43
1993	45	55	8.30	42	39
1994	40	60	8.45	38	36
1995	35	65	8.60	34	33

In 1986, the premium subsidy will be 30 percent.

Table 11. Estimated Costs for Federal Crop Insurance Based on Commission Recommendations
(dollar amounts in millions)

Year	*Percent of Potential Acres*	*Total Premium Earned*	*MMA & Reinsured*	*Premium Subsidy & FCIC*	*Excess Losses*	*Total Costs*
1991	50	$ 952	$324	$438	$314	$1,075
1992	52	1,009	343	434	314	1,091
1993	54	1,067	363	416	314	1,093
1994	56	1,126	383	405	314	1,102
1995	58	1,187	404	392	314	1,109

Table 12: Participation Rate by State for Net and Gross Insured Acres—1988 Crop Year

State	Net Insured Acres	Gross Insured Acres
Alabama	447,864	527,306
Alaska	0	0
Arizona	14,563	15,577
Arkansas	888,040	1,247,092
California	538,229	621,831
Colorado	874,318	1,168,464
Connecticut	842	837
Delaware	74,186	81,974
Florida	171,681	183,186
Georgia	817,986	887,987
Hawaii	1,564	1,564
Idaho	501,432	665,182
Illinois	2,282,081	3,436,307
Indiana	1,118,887	1,266,437
Iowa	6,565,626	8,891,864
Kansas	3,262,601	4,696,042
Kentucky	264,860	348,656
Louisiana	948,707	1,177,795
Maine	7,682	7,676
Maryland	87,588	104,135
Massachusetts	2,449	2,449
Michigan	293,594	324,853
Minnesota	5,168,404	6,107,544
Mississippi	812,971	887,378
Missouri	1,434,858	2,006,310
Montana	4,471,104	5,753,673
Nebraska	3,941,394	5,458,854
Nevada	0	0
New Hampshire	0	0
New Jersey	10,642	11,685
New Mexico	69,594	85,174
New York	25,913	25,892
North Carolina	578,934	690,364
North Dakota	8,826,076	11,170,175
Ohio	531,204	674,719
Oklahoma	927,196	1,266,141
Oregon	418,954	746,174
Pennsylvania	40,447	41,384
Rhode Island	281	280
South Carolina	217,782	225,903
South Dakota	3,035,958	3,787,393
Tennessee	83,965	93,153

Continued

Table 12 : (Continued): Participation Rate by State for Net and Gross Insured Acres
1988 Crop Year Net

State	Net Insured Acres	Gross Insured Acres
Texas	3,620,089	5,501,663
Utah	20,458	22,869
Vermont	1,549	1,592
Virginia	320,589	354,193
Washington	1,417,093	2,614,344
West Virginia	11,553	11,586
Wisconsin	207,037	233,906
Wyoming	170,911	215,115
Total	55,426,646	73,644,642

NOTE: Two measures of insured acres are available: (1) gross acres and (2) net acres. Gross acres include the total acreage when one party in a sharelease agreement enrolls in the Federal crop insurance program, even though the other party may choose not to enroll. For example, if a landlord obtains Federal crop insurance on his or her share of 100 acres and the tenant does not, gross acres would count all 100 acres as being covered. Net acres adjust for the share arrangement. Thus, if the share arrangement in this example was for each party to have 50 percent of the crop, then only 50 acres would be counted. The Commission chose to use net acres insured as the appropriate measure of participation in the Federal crop insurance program.

Table 13: Participation Rate By State: Net Insured Acres as a Percent of Planted Acres, Excluding Hay Acres (1988 Crop Year)

Net Insured State	Net Insured Acres	Percent of Planted Acres
Alabama	447,864	26
Alaska	0	0
Arizona	14,563	2
Arkansas	888,040	13
California	538,229	14
Colorado	874,318	21
Connecticut	842	2
Delaware	74,186	15
Florida	171,681	20
Georgia	817,986	24
Hawaii	1,564	2
Idaho	501,432	17
Illinois	2,282,081	11
Indiana	1,118,887	11
Iowa	6,565,626	31
Kansas	3,262,601	19
Kentucky	264,860	9
Louisiana	948,707	24
Maine	7,682	5
Maryland	87,588	7
Massachusetts	2,449	6
Michigan	293,594	6
Minnesota	5,168,404	31
Mississippi	812,971	17
Missouri	1,434,858	16
Montana	4,471,104	68
Nebraska	3,941,394	28
Nebraska	3,9441,394	28
Nevada	0	0
New Hampshire	0	0
New Jersey	10,642	4
New Mexico	69,594	10
New York	25,913	2
North Carolina	578,934	15
North Dakota	8,826,076	52
Ohio	531,204	6
Oklahoma	927,196	15
Oregon	418,954	35
Pennsylvania	40,447	2
Rhode Island	281	7
South Carolina	217,782	12
South Dakota	3,035,958	27
Tennessee	83,965	3
Texas	3,620,089	24
Utah	20,458	5
Vermont	1,549	2
Virginia	320,589	20
Washington	1,417,093	45
West Virginia	11,553	11
Wisconsin	207,037	4
Wyoming	170,911	26

Table 15: Farmers Home AdministrationEmergency Disaster Loans

Fiscal Year	Number	Amount
1970	12,778	$ 89,430,160
1971	19,804	127,635,906
1972	12,979	108,911,809
1973	128,667	557,766,595
1974	22,434	128,336,769
1975	43,675	735,020,537
1976	16,878	477,711,810
TQ	1,575	41,502,610
1977	35,769	1,178,387,980
1978	89,119	3,411,808,200
1979	62,913	2,871,641,760
1980	54,394	2,266,890,320
1981	138,990	5,112,290,430
1982	42,863	2,173,412,200
1983	8,771	565,937,500
1984	34,997	1,051,627,156
1985	14,060	490,876,638
1986	5,584	217,774,030
1987	2,548	113,612,905
1988	5542	9,890,573
1989*	2,110	52,825,380
Total	751,462	$21,803,291,277

*FmHA data as of 053189

Table 16: Farmers Home Administration Operating Loans

Fiscal Year	Insured	Guaranteed	Total
1980	31,849	362	32,211
1981	29,496	342	29,838
1982	44,370	549	44,919
1983	56,072	488	56,560
1984	59,202	965	60,167
1985	76,509	9,693 8	6,202
1986	49,474	9,407	58,981
1987	32,095	13,614	45,709
1988	23,167	9,853	33,020
1989*	17,605	7,5972	5,202
Total	419,939	52,870	472,809

*FmHA data as of 053189

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